

1. REPORT DATE: 00/00/00 :
 2. BUREAU: FUS :
 3. SECTION(S): : 4. PUBLIC MEETING DATE:
 5. APPROVED BY: : 00/00/00
 DIRECTOR: :
 SUPERVISOR: :
 6. PERSON IN CHARGE: : 7. DATE FILED: 10/29/01
 8. DOCKET NO: R-00016854 : 9. EFFECTIVE DATE: 01/01/02

PARTY/COMPLAINANT: PUC

RESPONDENT/APPLICANT: DUQUESNE LIGHT COMPANY

COMP/APP COUNTY:

UTILITY CODE: 110150

ALLEGATION OR SUBJECT

DUQUESNE LIGHT COMPANY FILED THEIR STATE TAX ADJUSTMENT SURCHARGE (STAS) FILING FOR SERVICE RENDERED ON AND AFTER JANUARY 1, 2002 WITH PETITION FOR WAIVER.

DOCUMENT
FOLDER

DOCKETED
OCT 30 2001

Kirkpatrick & Lockhart LLP

Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101-1507
717.231.4500
www.kl.com

ORIGINAL

October 29, 2001

VIA HAND DELIVERY

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

Daniel P. Delaney
717.231.4516
Fax: 717.231.4501
ddelaney@kl.com

RECEIVED
01 OCT 29 PM 4:07
SECRETARY'S BUREAU

DOCUMENT FOLDER

Re: Duquesne Light Company Filing for Single Issue Rate Case Proceeding Under 66 Pa. C.S. §1308(a) for Recovery of Revenue Neutral Reconciliation (RNR) Tax Liability Producing Rates Above the Rate Cap.
Docket No. R-000 16854

Dear Secretary McNulty:

Enclosed for filing in the above captioned matter please find an original and eight copies of the following:

1. Duquesne Light Company's ("Duquesne's") Request for Recovery of Revenue Neutral Reconciliation Tax Liability Producing Rates Above the Rate Cap.
2. Duquesne's Petition for Waiver.
3. Information in Support of Duquesne's Request for Recovery of Revenue Neutral Reconciliation Tax as required by Section 53.52 of the Public Utility Commission's ("Commission's") regulations, 52 Pa. Code §53.52.

Pursuant to the Commission's regulation at Section 54.95, 52 Pa. Code §54.95, Duquesne is requesting permission to recover its increased gross receipts tax for 2002 resulting from the increase in the Revenue Neutral Reconciliation ("RNR") as published by the Pennsylvania Department of Revenue in the Pennsylvania Bulletin on September 29, 2001 (31 Pa.B. 5507).

112

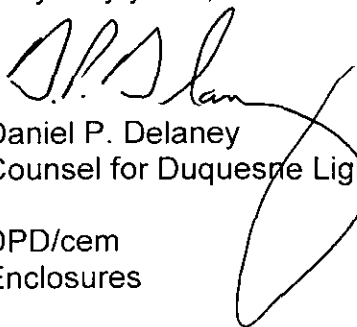
Kirkpatrick & Lockhart LLP

James J. McNulty, Secretary
October 29, 2001
Page 2

Duquesne proposes to utilize the State Tax Adjustment Surcharge ("STAS") for recovery of the 2002 RNR tax liability. As explained in the enclosed Petition for Waiver, Duquesne is requesting Commission permission to waive the schedule for filing and applying its STAS until March 2002 so that it will coincide with the expiration of the CTC for Duquesne's Rate RS customers. Delaying implementation of the STAS until March 2002 will provide short-term rate stability for Duquesne's customers and avoid possible customer confusion from multiple rate changes in 2002.

Duquesne appreciates the cooperation and assistance of the Commission and its Staff in this matter.

Very truly yours,



Daniel P. Delaney
Counsel for Duquesne Light Company

DPD/cem
Enclosures

cc: T. Sheets, Director – Bureau of Audits
R. Rosenthal, Director – Fixed Utility Services
R. Wilson, Manager – Bureau of Fixed Utility Services
C. F. Hoffman, Director – Office of Trial Staff
I. Popowsky, Office of Consumer Advocate
Office of Small Business Advocate

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Duquesne Light Company Filing for :
Single Issue Rate Case Proceeding :
Under 66 Pa. C.S. §1308(a) for :
Recovery of Revenue Neutral :
Reconciliation (RNR) Tax Liability :
Producing Rates Above the Rate Cap. :

Docket No. R-000 16854

CERTIFICATE OF SERVICE

I hereby certify that I have this day served true and correct copies of Duquesne Light Company's Request for Recovery of Revenue Neutral Reconciliation Tax Liability Producing Rates Above the Rate Cap, Petition for Waiver and Section 53.52 Responses upon the individuals, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

Via First Class Mail

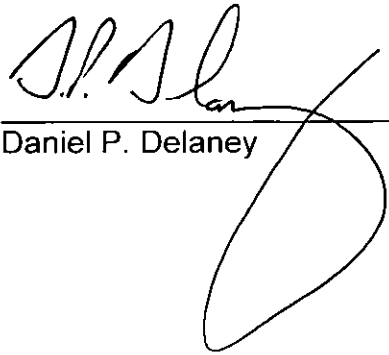
Charles F. Hoffman, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Irwin A. Popowsky, Esquire
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1923

RECEIVED
01 OCT 29 PM 4: 08
P.U.C.
SECRETARY'S BUREAU

Office of Small Business Advocate
Suite 1102, Commerce Building
300 N. Second Street
Harrisburg, PA 17101

Kirkpatrick & Lockhart LLP
240 North Third Street
Harrisburg, PA 17101-1507
(717) 231-4500
(717) 231-4501 (Fax)
ddelaney@kl.com



Daniel P. Delaney

Counsel for Duquesne Light Company

Dated: October 29, 2001

RECEIVED
01 OCT 29 PM 4:08
Kirkpatrick & Lockhart LLP
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
OCT 29 PM 4:08
ORIGINAL

SECRETARY'S BUREAU

Duquesne Light Company Filing for :
Single Issue Rate Case Proceeding :
Under 66 Pa. C.S. §1308(a) for :
Recovery of Revenue Neutral :
Reconciliation (RNR) Tax Liability :
Producing Rates Above the Rate Cap. :

Docket No. R-000 16854

DOCKETED
OCT 30 2001

**DUQUESNE LIGHT COMPANY
REQUEST FOR RECOVERY OF REVENUE NEUTRAL RECONCILIATION TAX
LIABILITY PRODUCING RATES ABOVE THE RATE CAP.**

Duquesne Light Company ("Duquesne") files this single issue rate proceeding pursuant to Section 1308(a) of the Public Utility Code, 66 Pa. C.S. §1308(a), for recovery of Revenue Neutral Reconciliation ("RNR") tax liability producing rates above Duquesne's rate cap. Duquesne files this single issue rate proceeding pursuant to Section 2804(16)(ii) of the Public Utility Code, 66 Pa. C.S. §2804(16)(ii) and Section 54.95 of the Public Utility Commission's ("Commission") regulations, 52 Pa. Code §54.95. In support of its request, Duquesne respectfully represents the following.

1. On September 29, 2001, the Pennsylvania Department of Revenue ("DOR") published in the Pennsylvania Bulletin notice of an increase in the RNR. 31 Pa.B. 5507 (September 29, 2001). The new RNR tax rate of .016 (16 mills) is to be imposed upon the utility's gross receipts tax for the period January 1, 2002 to December 31, 2002. The combined utility gross receipts tax ("GRT") rate for electric distribution companies will be effectively .060 (60 mills) for tax periods beginning on and after

January 1, 2002 rather than the current .043 (43 mills), which includes the 2001 RNR of (-1) mill. Adjustments to reflect changes in the RNR are to become effective 60 days after the filing of a new tariff or tariff supplement. (Section 54.95(c)(4), 52 Pa. Code §54.95(c)).

2. As set forth in greater detail below, Duquesne proposes to utilize the State Tax Adjustment Surcharge ("STAS") for recovery of the 2002 RNR tax liability.

3. Duquesne estimates that the increase in the RNR tax rate of 16 mills for the calendar year 2002 will create an estimated tax liability for Duquesne of \$15,021,313. Duquesne's current rates are slightly below the statutory rate cap by virtue of the application of its current STAS, defined in its tariff as Rider No. 10 to Duquesne's Tariff Pa. P.U.C. Electric No. 22. Duquesne's current STAS is (-0.6417%) which results in an annual refund to customers of approximately \$5.7 million and is slated to be applicable through December 31, 2001. While all of the information required for a final calculation of the STAS for the calendar year 2002 is not yet available, it is certain that the refunds that will be incorporated therein will not completely offset the impact of the 16 mills RNR rate. Recovery of the 2002 RNR tax liability therefore will produce rates above Duquesne's existing rate cap.

4. With this single issue rate filing, Duquesne has simultaneously filed a petition to waive, inter alia, the schedule for filing and implementing its STAS, delaying the effective date until early March 2002 to coincide with the expiration of Duquesne's Competitive Transition Charge ("CTC") for Duquesne's Rate RS customers. As explained in that petition, this delay will eliminate potential Duquesne customer confusion generated by a STAS rate increase in January 2002 followed by a rate

decrease in March 2002 with the expiration of the CTC and implementation of POLR II generation rates. If the waivers requested in that petition are granted, Duquesne will file the calculation of the STAS to become effective in March 2002 by December 31, 2001 to provide 60 days notice of that rate increase. Duquesne proposes to allow the current STAS of (-0.6417%) to remain in effect until the last day of CTC recovery for Rate RS customers.

Information Required by Section 54.95 of the Commission's Regulations for Recovery of RNR Tax Liability Producing Rates Above the Rate Cap.

Duquesne respectfully submits the following information in support of its request to increase rates above its rate cap due to the 2002 RNR as required by Section 54.95(c) of the Commission's regulations, 52 Pa. Code §54.95(c).

- (1) A statement of the reason for the proposed rate increase is to permit the EDC to recover that portion of its RNR tax liability that produces rates above the rate cap.**

On September 29, 2001, pursuant to §2810(c)(1) of the Public Utility Code, 66 Pa. C.S. §2810(c)(1), the DOR published notice in the Pennsylvania Bulletin of the revenue-neutral reconciliation (RNR) tax rate of 16 mills for the year beginning January 1, 2002. This RNR creates an estimated tax liability for Duquesne Light Company of \$15,021,313.

Duquesne's current billed rates are slightly below the statutory rate cap by virtue of the application of a STAS, billed as Tariff Rider No. 10, of (-0.6417%), which refunds to the customers approximately \$5.7 million and is slated to be applicable through December 31, 2001. While a final calculation of the STAS for the calendar year 2002 (without consideration of the RNR) is not yet possible, it is certain that the refund that will be incorporated therein will not offset the impact of the 16 mill RNR. Therefore,

recovery of the 16 mill RNR will produce rates above Duquesne's rate cap. This filing requests Commission approval to recover the entire RNR tax liability, including that portion above the rate cap, under the provisions of Section 2804(16)(ii) and the procedures set forth at Section 54.95, 52 Pa. Code §54.95.

- (2) **A proof of revenue calculation by rate class demonstrating the impact of the proposed rate increase upon each class of customers. The EDC shall, at a minimum, show both the dollar and percentage change being proposed for each tariffed rate.**

See Attachment A.

- (3) **A description of the surcharge for recovering the increased tax liability.**

Duquesne proposes to utilize its STAS to recover the estimated \$15,021,313 or an increase of 1.7% in revenue requirement (which includes the 16 mill tax and the related gross-up for Gross Receipts Tax on the revenue recovery). A copy of Duquesne's Tariff Rider No. 10 – State Tax Adjustment Surcharge is included as Attachment B. The STAS is a percentage factor applied to the customer charge, distribution, transmission, generation and CTC bill components of POLR customers and to the customer charge, distribution and CTC bill components of customers that acquire their electricity from an Electric Generation Supplier (EGS). The surcharge is calculated annually and billed on a calendar year basis. The Company considers the STAS to be the appropriate surcharge mechanism for RNR recovery above the rate cap for several reasons, the most significant of which are:

1. Adjustments to the RNR and the GRT rates have historically been recognized in the STAS, which was designed to account for changes in State tax rates.
2. Duquesne's STAS includes a reconciliation factor, which will address the uncertainties associated with recovering an estimated liability. Total gross receipts for the Company will vary not only because of sales

fluctuations from traditional forces such as weather and economic conditions, but also as a result of the availability of electric generation from EGSs in the deregulated marketplace.

3. Use of an existing surcharge mechanism may mitigate customer confusion over rate changes.
 4. Use of an existing surcharge will eliminate the system and billing costs that would be incurred to incorporate a new billing component that may have only temporary application.
- (4) A notice that the surcharge becomes effective 60 days from the date the EDC files the proposed rate increase.**

Duquesne has simultaneously filed a petition to waive the schedule for filing and implementing its STAS, delaying the commencement date until March, 2002 to coincide with the expiration of the CTC for Rate RS customers. Such delay will eliminate possible customer confusion generated by a rate increase in January, 2002, followed by a rate decrease in March, 2002. It will also eliminate the issue of rates exceeding the rate cap for approximately 500,000 customers, or nearly 85% of Duquesne's customers. On average, Rate RS customers would have experienced an overall rate reduction of 20% by virtue of the cessation of the CTC billing component and the application of the POLR II generation rates. (These decreases do not reflect any rate changes that may result from the Company's membership in PJM-West.) The calculated increase in revenue requirement for 2002 for recovery of the RNR is 1.7%. As shown on Attachment A, recovery of that revenue requirement over the period of early March through December 31, 2002 will result in an increase of approximately 2.18%. Therefore, recovery of the 16 mill RNR by way of Duquesne's STAS commencing at the same time will reduce that decrease to Rate RS customers for the remainder of 2002 to

17.82%. Duquesne proposes to file the calculation of the STAS to be effective in March 2002 by December 31, 2001 to provide 60 days notice of the rate increase.

Customer Notification Requirements Under Section 54.98(b)
of the Commission's Regulations.

- (b) **An EDC proposing to increase its rates under §54.95 (relating to recovery of RNR tax liability producing rates above the rate cap) shall provide customer notice and follow the tariff posting procedures in §§53.41-53.45 (relating to posting of tariffs and notices).**

The Company's request to recover its RNR tax liability does not constitute a general rate increase within the meaning of 66 Pa. C.S. § 1308(d). Accordingly, the requirements for public notice of this filing are established by the Commission's regulations at 52 Pa. Code § 53.45(g). Those regulations provide that "... public notice of the proposed changes shall be given in the manner directed by the Commission."

The Company respectfully requests that the Commission adopt the following public notice requirements in this case. After the Commission has acted on the Company's request, the Company will notify its customers of the Commission's action by bill insert. The bill insert will be sent as soon after the Commission action as practicable. In addition, on the date that the Commission acts on the Company's request, the Company will distribute a news release containing a description of the Commission's actions to the major newspapers and radio and televisions stations in its service area.

This proposed public notice is appropriate for the following reasons. First, all customers will receive actual notice of the Commission's action on the Company's request. Public notice of this nature satisfies due process requirements. Second, the proposed approach avoids multiple notices which may contain slightly different

information. Customers will receive a single notice describing the Commission's action and reflecting the latest rate and billing data. Third, the proposed approach is consistent with the current practice of providing customer notice of changes in the STAS. For all of the foregoing reasons, the Company respectfully requests that the Commission accept the Company's proposed public notice requirements.

WHEREFORE, for all of the foregoing reasons, Duquesne Light Company respectfully requests the Public Utility Commission to enter an Order which:

1. Approves this filing for recovery of the Revenue Neutral Reconciliation tax liability and permits Duquesne to utilize its State Tax Adjustment Surcharge to recover the estimated RNR tax liability of \$15,021,313;

2. Grants the Petition for Waiver filed by Duquesne at this docket and permits Duquesne, inter alia, to waive the schedule for filing and implementing its State Tax Adjustment Surcharge until March 2002 to coincide with the expiration of its CTC for its Rate RS customers. Duquesne will file the calculation of the STAS to be effective in March 2002 by December 31, 2001 to provide 60 days notice of the rate increase;

3. Permits Duquesne to implement the public notice procedures identified herein to inform its customers of the Commission's action on the Company's request; and

4. Grants any additional relief which is just and reasonable under the circumstances.

Respectfully submitted,



Daniel P. Delaney

Kirkpatrick & Lockhart LLP
240 North Third Street
Harrisburg, PA 17101-1923
(717) 231-4500
(717) 231-4501 (Fax)
ddelaney@kl.com

Counsel for Duquesne Light Company

Dated: October 29, 2001

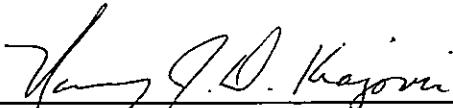
RECEIVED
01 OCT 29 PM 4: 08
SECRETARY'S BUREAU
D.L.C.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Duquesne Light Company Filing for :
Single Issue Rate Case Proceeding :
Under 66 Pa. C.S. §1308(a) for : Docket No. R-000 _____
Recovery of Revenue Neutral :
Reconciliation (RNR) Tax Increase :
Producing Rates Above the Rate Cap. :

AFFIDAVIT

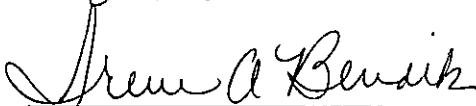
Nancy J. D. Krajovic, being duly sworn according to law, deposes and says that she is Manager, Regulatory Affairs of Duquesne Light Company; that she is authorized to and does make this affidavit for it; and that the facts set forth in the foregoing Petition for Recovery of RNR Tax Increase are true and correct to the best of her knowledge, information and belief, and she expects the said Duquesne Light Company to be able to prove the same at any hearing hereof.



Nancy J. D. Krajovic
Manager, Regulatory Affairs
Duquesne Light Company

Notarial Seal
Irene A. Bendik, Notary Public
North Union Twp., Fayette County
My Commission Expires June 21, 2004
Member, Pennsylvania Association of Notaries

Sworn to and subscribed before me
this 26th day of October, 2001.



Notary Public

RECEIVED
01 OCT 29 PM 4:08
SECRETARY'S BUREAU

RECEIVED
01 OCT 29 PM 4:09
FIDELITY'S BUREAU
SECRETARY'S BUREAU

ATTACHMENT A

**A PROOF OF REVENUE CALCULATION BY RATE CLASS
DEMONSTRATING THE IMPACT OF THE PROPOSED RATE INCREASE
UPON EACH CLASS OF CUSTOMERS.**

Duquesne Light Company
Proof of Revenue/Calculation of Increase
54.95 (c) (2)

<u>Rate Schedule</u>	<u>Estimated 2002 Revenue Subject to GRT/RNR</u>	<u>RNR Revenues (.016 x Revenue)</u>	<u>Gross-up for GRT Tax / .94</u>	<u>Increase in Revenue Requirement</u>	<u>Estimated Revenues 03/10/02 - 12/31/02</u>	<u>% Increase to be Included in STAS for RNR Recovery</u>
RA	3,096,900	49,550	52,713	1.70%	2,542,161	
RS	274,536,280	4,392,580	4,672,958	1.70%	205,339,936	
RH	25,423,747	406,780	432,745	1.70%	19,066,770	
GS/GM	236,521,922	3,784,351	4,025,905	1.70%	186,618,359	
GMH	24,435,912	390,975	415,930	1.70%	18,994,100	
GL	165,375,128	2,646,002	2,814,896	1.70%	134,060,579	
GLH	27,724,405	443,590	471,905	1.70%	22,011,010	
L	68,613,032	1,097,809	1,167,881	1.70%	54,825,990	
HVPS	40,231,305	643,701	684,788	1.70%	33,155,964	
SM	12,134,424	194,151	206,543	1.70%	10,112,021	
PAL	176,304	2,821	3,001	1.70%	146,916	
AL	3,606	58	61	1.70%	2,764	
SH	75,744	1,212	1,289	1.70%	63,120	
SE	3,043,812	48,701	51,810	1.70%	2,536,507	
MTS	<u>1,109,640</u>	<u>17,754</u>	<u>18,887</u>	1.70%	924,697	
Total	\$882,502,161	\$14,120,035	\$15,021,313	1.70%	\$690,400,893	<u>2.18%</u>

ATTACHMENT B

**DUQUESNE LIGHT COMPANY'S TARIFF RIDER NO. 10 – STATE TAX
ADJUSTMENT SURCHARGE.**

STANDARD CONTRACT RIDERS - (Continued)

RIDER NO. 10 - STATE TAX ADJUSTMENT

(Applicable to All Rates)

In addition to the charges provided in this Tariff, a surcharge of (0.6417%.%) will apply to all bills rendered by the Company, pursuant to the Pennsylvania Public Utility Commission authorization of March 10, 1970, to compensate the Company for new and increased taxes imposed by the General Assembly. (D)

The Company will recompute the surcharge using the elements prescribed by the Commission's March 10, 1970, authorization:

1. Whenever any of the tax rates used in computing the surcharge is changed, in which case the recomputation shall take into account the changed tax rate.
2. Whenever the Company makes effective increased or decreased rates (other than net energy clause), in which case the recomputation shall take into account the adjustments prescribed by the Commission's March 10, 1970, authorization.
3. On December 22, and each year thereafter. (C)

Every recomputation made pursuant to the above paragraph shall be submitted to the Commission within ten (10) days after the occurrence of the event or date which occasions such recomputation: and if the recomputed surcharge is less than the one then in effect the Company will, and if the recomputed surcharge is more than the one then in effect the Company may, accompany such recomputation with a Tariff or supplement to reflect such recomputed surcharge, the effective date of which, shall be ten (10) days after filing.

(D) - Indicates Decrease

(C) – Indicates Change

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RECEIVED

01 OCT 29 PM 4:

P.U.C.
SECRETARY'S BUREAU

Duquesne Light Company Filing for :
Single Issue Rate Case Proceeding :
Under 66 Pa. C.S. §1308(a) for :
Recovery of Revenue Neutral :
Reconciliation (RNR) Tax Liability :
Producing Rates Above the Rate Cap. :

Docket No. R-000 16854

**DUQUESNE LIGHT COMPANY
PETITION FOR WAIVER.**

Duquesne Light Company ("Duquesne") hereby petitions the Public Utility Commission ("Commission") to waive certain provisions of its regulations, Duquesne's tariff and a prior Commission Order for purposes of recovering Duquesne's Revenue Neutral Reconciliation ("RNR") tax liability. Duquesne files this petition pursuant to Sections 703(g) and 2804(16)(ii) of the Public Utility Code, 66 Pa. C.S. §§703(g), 2804(16)(ii), and Sections 1.2(c) and 5.43(a) of the Commission's regulations, 52 Pa. Code §§1.2(c), 5.43(a). In support of its petition, Duquesne respectfully represents the following.

1. Concurrently with this petition, Duquesne has filed at this docket a request for recovery of RNR tax liability producing rates above Duquesne's rate cap pursuant to Section 2804(16)(ii) of the Public Utility Code, 66 Pa. C.S. §2804(16)(ii). As explained in that request, the Pennsylvania Department of Revenue published on September 29, 2001 notice of the RNR of .016 (16 mills) to be imposed upon the utility's gross receipts tax for the period January 1, 2002 to December 31, 2002. The combined utility gross

receipts tax rate for electric distribution companies will be effectively .060 for tax periods of January 1, 2002 through December 31, 2002 rather than the current .043, which includes the 2001 RNR of (-1) mill. Duquesne estimates that the RNR tax rate for the calendar year 2002 will create an estimated tax liability for Duquesne of \$15,021,313. As explained in Duquesne's request, recovery of the 2002 RNR will produce rates above Duquesne's existing rate cap.

2. As explained in the Commission's Order in Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service, Commission Docket No. R-00974104 (Order entered December 20, 2000) ("POLR II Order"), beginning on the date that Duquesne's competitive transition charge ("CTC") expires for each rate class, total POLR II rates, compared to the total rates in effect during POLR I, will be reduced 17% on a system-wide average basis. (See POLR II Order at pages 5-6). Duquesne's CTC for a given rate schedule will be eliminated on the day that the CTC for that rate schedule is fully collected. Based on current estimates, Duquesne anticipates that CTC recovery will be completed for its rate RS customers in March 2002. By this petition, Duquesne is requesting Commission permission to waive the schedule for filing and applying its State Tax Adjustment Surcharge ("STAS"). Delaying the implementation of the STAS until March 2002 will permit it to coincide with the expiration of the CTC for Duquesne's Rate RS customers. Such delay will eliminate possible customer confusion generated by a STAS rate increase in January, 2002, followed by a rate decrease in March, 2002. Delaying the STAS implementation until March 2002 will also eliminate the issue of Duquesne's rates exceeding the rate cap for approximately 500,000 customers, or nearly 85% of

Duquesne's customers. On average, Duquesne's Rate RS customers would have experienced an overall rate reduction of 20% by virtue of the cessation of the CTC billing component and the application of the POLR II generation rates. (These decreases do not reflect any rate changes that may result from the Company's membership in PJM-West.) Recovery of the 16 mill RNR by way of a STAS commencing in March 2002 will reduce the overall decrease to the RS customers to 17.82% relative to the recovery of the RNR for the remainder of 2002.

3. For purposes of maintaining rate stability in the short term and avoiding customer confusion generated by a STAS rate increase in January, 2002 followed by a rate decrease in March, 2002 as a result of the cessation of the CTC and the implementation of the POLR II generation rates, Duquesne respectfully requests the Commission to waive the following provisions:

a. The effective date of Duquesne's RNR single issue rate increase.

Section 54.95(c)(4) of the Commission's regulations requires that the surcharge implementing recovery of RNR tax liability producing rates above the rate cap become effective 60 days from the date the electric distribution company files the proposed rate increase. As explained in its rate increase request, Duquesne proposes to recover the RNR tax liability in its STAS. By this petition, Duquesne requests Commission permission to waive the schedule for filing and implementing its STAS. Duquesne proposes to delay the implementation date of the STAS implementing the 2002 RNR rate until March 2002 to coincide with the expiration of the CTC for its rate RS customers. Duquesne will file the calculation of the STAS to be effective in March 2002 by December 31, 2001 to provide 60 days notice of the rate increase. Duquesne

proposes to allow the current STAS of (-0.6417%) to remain in effect until the last day of CTC recovery for Rate RS customers.

b. The effective date provision of Rider No. 10 to Duquesne's Tariff Pa. P.U.C. Electric No. 22. Rider No. 10 describes the STAS procedures in Duquesne's tariff. For purposes of delaying its RNR STAS recovery until March 2002, Duquesne requests the Commission's permission to waive the provision of Duquesne's Rider No. 10 which states that the effective date of Duquesne's recomputed STAS surcharge will be 10 days after filing.

Duquesne proposes to include with the STAS filing to be made by December 31, 2001 pro forma tariff sheets showing the calculated STAS rate including the RNR recovery. One day before the CTC for Rate RS customers expires, the tariff pages will be filed effective on one day's notice. (Duquesne will be monitoring CTC recovery by day in the final month and will be able to identify the day upon which recovery will be complete.)

c. The requirement that Duquesne perform its annual STAS recalculation on a calendar year basis. In the Order captioned Petition of Duquesne Light Company for Deferral of Revenue Neutral Reconciliation and Establishment of a Regulatory Asset, Commission Docket No. P-00991768, et seq. (Order entered December 16, 1999), the Commission directed in ordering paragraph 5 that Duquesne perform its annual STAS recalculation on a calendar year basis. Duquesne requests that this provision be waived by virtue of the delay of the implementation of the STAS until March 2002. Since Duquesne is proposing to implement its STAS on less than a

12-month basis (March to December 2002), it will be impossible to perform the recalculation on a calendar year basis.

4. Duquesne submits that the waivers requested in this petition are just and reasonable and in the best interests of its customers. The relief requested will provide short-term rate stability for most of Duquesne's customers and avoid customer confusion from multiple rate changes in 2002.

WHEREFORE, for all of the foregoing reasons, Duquesne Light Company respectfully requests the *Public Utility Commission* to grant this request for waiver and to enter an Order which permits Duquesne to:

1. Waive the effective date requirements of Section 54.95(c)(4) of the Commission's regulations and permit Duquesne's STAS filing to become effective in March 2002;

2. Waive the effective date provision of Rider No. 10 to Duquesne's tariff and permit its recomputed STAS surcharge to become effective March 2002;

3. Waive the requirement of the Commission's Order at P-00991768, et seq. requiring Duquesne to perform its annual STAS recalculation on a calendar year basis;

4. *Retain the current STAS of (-0.6417%) to remain in effect until the cessation of the CTC recovery for Rate RS customers;*

5. File on one day's notice STAS tariff pages reflecting the expiration of CTC recovery for Duquesne's Rate RS customers; and

6. Provide any additional relief that is just and reasonable under the circumstances.

Respectfully submitted,



Daniel P. Delaney

Kirkpatrick & Lockhart LLP
240 North Third Street
Harrisburg, PA 17101-1923
(717) 231-4500
(717) 231-4501 (Fax)
ddelaney@kl.com

Counsel for Duquesne Light Company

Dated: October 29, 2001

RECEIVED
01 OCT 29 PM 4:10
INDUSTRY
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Duquesne Light Company Filing for :
Single Issue Rate Case Proceeding :
Under 66 Pa. C.S. §1308(a) for : Docket No. R-000 _____
Recovery of Revenue Neutral :
Reconciliation (RNR) Tax Increase :
Producing Rates Above the Rate Cap. :

AFFIDAVIT

Nancy J. D. Krajovic, being duly sworn according to law, deposes and says that she is Manager, Regulatory Affairs of Duquesne Light Company; that she is authorized to and does make this affidavit for it; and that the facts set forth in the foregoing Petition for Waiver are true and correct to the best of her knowledge, information and belief, and she expects the said Duquesne Light Company to be able to prove the same at any hearing hereof.



Nancy J. D. Krajovic
Manager, Regulatory Affairs
Duquesne Light Company

Notarial Seal
Marie A. Bendik, Notary Public
North Union Twp., Fayette County
My Commission Expires June 21, 2004
Member, Pennsylvania Association of Notaries

Sworn to and subscribed before me
this 26th day of October, 2001.



Notary Public

RECEIVED
01 OCT 29 PM 4: 11
P.A.U.C.
SECRETARY'S BUREAU

ORIGINAL

R-00016854

DUQUESNE LIGHT COMPANY
Supporting Information
Request for Recovery of Revenue Neutral Reconciliation Tax

§ 53.52 *Applicability; public utilities other than canal, turnpike, tunnel, bridge and wharf companies.*

(a) Whenever a public utility other than a canal, turnpike, tunnel, bridge and wharf company files a tariff, revision or supplement effecting changes in the terms and conditions of service rendered or to be rendered, it shall submit to the Commission, with the tariff, revision, or supplement, statements showing all of the following:

(1) The specific reasons for each change.

Response: To recover the Revenue Neutral Reconciliation ("RNR") tax of 16 mills for the calendar year 2002.

(2) The total number of customers served by the utility.

Response: 585,093 as of September 2001.

(3) A calculation of the number of customers, by tariff subdivision, whose bills will be affected by the change.

Response: The bills of all of the Company's customers will be affected by the change.

<u>Rate Schedule</u>	<u># of Customers</u>
RA	3,010
RS	498,982
RH	23,037
GS/GM	53,247
GMH	3,375
GL	712
GLH	123
L	28
HVPS	2
AL	3
SE	1
SM	650
SH	14
MTS	1,702
PAL	207

RECEIVED
01 OCT 29 PM 4:12
SECRETARY'S BUREAU

(4) The effect of the change on the utility's customers.

Response: The effect would be an increase in the rates billed to the customers of approximately 2.18%, commencing in early March, 2002 and applied through December 31, 2002.

- (5) The effect, whether direct or indirect, of the proposed change on the utility's revenues and expenses.

Response: The change in rates will produce an increase of approximately 1.7% for the calendar year 2002 to offset the increase in tax liability of that same amount. The recovery is designed to be revenue neutral to the Company.

- (6) The effect of the change on the service rendered by the utility.

Response: The customers will experience no change in service as a result of this proposed recovery.

- (7) A list of factors considered by the utility in its determination to make the change. The list shall include a comprehensive statement as to why these factors were chosen and the relative importance of each. This subsection does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa. C.S. § 1308 (relating to voluntary changes in rates.)

Response: The provisions of Section 2804(16)(ii) of the Public Utility Code, 66 Pa. C.S. §2804(16)(ii) and Section 54.95 of the Public Utility Commission's ("Commission") regulations, 52 Pa. Code §54.95 provide for the recovery of the RNR tax liability.

- (8) Studies undertaken by the utility in order to draft its proposed change. This paragraph does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa. C.S. § 1308.

Response: Not applicable.

- (9) Customer polls taken and other documents which indicate customer acceptance of and desire for the proposed change. If the poll or other documents reveal discernible public opposition, an explanation of why the change is in the public interest shall be provided.

Response: Not applicable.

- (10) Plans the utility has for introducing or implementing the changes with respect to its ratepayers.

Response: Notice will be provided in the manner as directed by the Commission in response to the Company's Request for Recovery of Revenue Neutral Reconciliation Tax Producing Rates Above the Rate Cap

(11) F.C.C., F.E.R.C., or Commission orders or rulings applicable to this filing.

Response: None.

(b) Whenever a public utility other than a canal, turnpike, tunnel, bridge and wharf company files a tariff, revision or supplement which will increase or decrease the bills to its customers, it shall submit, in addition to the requirements of subsection (a), to the Commission, with the tariff, revision, or supplement, statements showing all of the following:

(1) The specific reasons for each increase or decrease.

Response: To recover the Revenue Neutral Reconciliation ("RNR") tax of 16 mills for the calendar year 2002.

(2) The operating income statement of the utility for a 12-month period, the end of which may not be more than 120 days prior to the filing. Water and wastewater utilities with annual revenues under \$250,000 and municipal corporations subject to Commission jurisdiction may provide operating income statements for a 12-month period, the end of which may not be more than 180 days prior to the filing.

Response: The Company incorporates by reference the operating income statement for the 12 months ended June 30, 2001 that was filed with the Commission as part of the Quarterly Earnings Surveillance Report submitted pursuant to § 71.3 and § 71.4 of 52 PA. Code.

(3) A calculation of the number of customers, by tariff subdivision, whose bills will be increased.

Response: The bills of all of the Company's customers will be affected by the change.

<u>Rate Schedule</u>	<u># of Customers</u>
RA	3,010
RS	498,982
RH	23,037
GS/GM	53,247
GMH	3,375
GL	712
GLH	123
L	28
HVPS	2
AL	3
SE	1
SM	650
SH	14

MTS	1,702
PAL	207

- (4) A calculation of the total increases, in dollars, by tariff subdivision, projected to an annual basis.

Response:

<u>Rate Schedule</u>	<u>Increase (\$)</u>
RA	52,713
RS	4,672,958
RH	432,745
GS/GM	4,025,905
GMH	415,930
GL	2,814,896
GLH	471,905
L	1,167,881
HVPS	684,788
AL	61
SE	51,810
SM	206,543
SH	1,289
MTS	18,887
PAL	3,001

- (5) A calculation of the number of customers, by tariff subdivision, whose bills will be decreased.

Response: None.

- (6) A calculation of the total decreases, in dollars, by tariff subdivision, projected to an annual basis.

Response: None.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Duquesne Light Company's Rate Change :
to State Tax Adjustment Surcharge to Implement : Docket Number: R00016854
2002 Revenue Neutral Reconciliation :

NOTICE OF APPEARANCE

Enclosed for filing please find the Notice of Appearance of the undersigned as counsel for PECO Energy Company in regard to the above-captioned proceeding. Also enclosed is a copy of this Notice that we request be date stamped and returned in the self-addressed, stamped envelope enclosed as proof of filing.

RECEIVED
2001 NOV 13 AM 10:29
PA PUC
SECRETARY'S OFFICE

Respectfully submitted,



Kent D. Murphy, Assistant General Counsel
Ward L. Smith, Associate General Counsel
Exelon Business Services Company
Counsel for:
PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19103
215-841-4941

DOCUMENT
FOLDER

DOCKETED

NOV 19 2001

Dated: November 8, 2001

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Duquesne Light Company's Electric Company's :
Rate Change to State Tax Adjustment Surcharge to :
Implement 2002 Revenue Neutral Reconciliation : Docket No. R00016854

**PECO ENERGY COMPANY'S
PETITION TO INTERVENE**

Pursuant to 52 Pa. Code § 5.71, PECO Energy Company ("PECO Energy") hereby files this Petition to Intervene in the above-captioned proceeding and in support thereof state the following:

RECEIVED
2001 NOV 13 AM 10:29
SECRETARY'S BUREAU

BACKGROUND

1. PECO Energy will be represented in this proceeding by the following counsel, who should be placed on the Commission's service list and receive copies of all correspondence and other documents:

Ward L. Smith, Esquire
Associate General Counsel
Kent D. Murphy, Esquire
Assistant General Counsel
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-4941
fax (215) 568-3389

**DOCUMENT
FOLDER**

DOCKETED
NOV 19 2001

2. PECO Energy is a public utility providing electric service in southeastern Pennsylvania subject to the jurisdiction of the Pennsylvania Public Utility Commission ("PUC" or the "Commission"), with its principal place of business at 2301 Market Street, Philadelphia, Pennsylvania 19101.


3. On October 29, 2001, Duquesne Light Company (“Duquesne”) filed its Request for Recovery of Revenue Neutral Reconciliation Tax Liability Producing Rates Above the Rate Cap, pursuant to Section 2804(16)(i) of the Electric Competition and Customer Choice Act, 66 Pa. C.S. Section 2804(16)(i), and the Commission’s regulations at 52 Pa. Code Section 54.91 et seq. Duquesne asserts that this petition has been filed to collect from its retail electric customers additional state taxes that have been determined by the Pennsylvania Department of Revenue (“DOR”) to be due and payable pursuant to the revenue neutral reconciliation (“RNR”) tax provisions of the 1996 Electricity Generation Customer Choice Act (“Customer Choice Act”), 66 Pa.C.S. §§ 2810. Duquesne asserts that its proposed 2002 State Tax Adjustment Surcharge (“STAS”) rates will be utilized to reflect changes in Duquesne’s state tax liability for calendar year 2002 pursuant to 52 Pa. C.S. §§ 54.94 and 54.95. Duquesne purports that this STAS calculation. Duquesne also proposes that the amount the STAS will be used to recover is estimated at \$15,021,313 or an increase of 1.7% in revenue requirement (which includes the 16 mill tax and the related gross-up for Gross Receipts Tax on the revenue recovery.) Duquesne states that the STAS is a percentage factor applied to the customer charge, distribution, transmission, generation and CTC bill components of customers that acquire their electricity from an Electrical Generation Supplier (EGS). Duquesne also alleges that the STAS is the appropriate surcharge mechanism for RNR recovery above the rate cap. The company states that they believe their STAS includes a reconciliation factor which will address the uncertainties associated with recovering an estimated liability; that the total gross receipts for the Company will vary because of sales fluctuations and as a result of the availability of electric generation from EGSs in the deregulated marketplace; and the use of an existing surcharge mechanism would both mitigate customer confusion over rate changes and eliminate the system and billing

costs that may be incurred to incorporate a new billing component that may have only temporary application.

4. PECO Energy Company is filing this petition to intervene because this matter involves provisions of the Electric Restructuring Act that affects all electric utilities. Through this intervention, PECO will act to ensure that there is consistent, just and reasonable application of the provisions for all affected utility companies.

WHEREFORE, PECO Energy respectfully requests this Honorable Commission to enter an Order that grants its Petition to Intervene in this matter as a full party.

Respectfully submitted,



Kent D. Murphy
Assistant General Counsel
Ward L. Smith
Associate General Counsel
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-4941
(215) 568-3389 (FAX)
ward.smith@exeloncorp.com

Counsel for PECO Energy Company

Dated: November 8, 2001

CERTIFICATE OF SERVICE

Ward L. Smith, Esquire and Kent D. Murphy, Esquire, Counsel for PECO Energy Company, certify that on November 8, 2001, we served by Regular U.S. Mail, postage prepaid, one (1) copy of our Motion to Intervene and Entry of Appearance on behalf of PECO Energy Company in Docket Nos. R00016850, R00016852, R00016855, R00016854 and R00016857 to the parties listed below:


Mark R. Dingman, Esquire
UGI Utilities Inc.
Hanover Industrial Estates
400 Stewart Road, PO Box 3200
Wilkes Barre, PA 18773
Counsel for UGI Utilities Inc.

Daniel P. Delaney
Kirkpatrick & Lockhart LLP
Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101
Counsel for Duquesne Light Company

Jack Munsch, Esquire
Allegheny Energy Company
800 Cabin Hill Drive
Greensburg, PA 195601
Counsel for Allegheny Energy Company

David Epple, Esquire
Energy Association of Pennsylvania
800 N. Third Street
Harrisburg, PA 17102
Counsel for Energy Assn. Of PA

Office of the Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101


Kent D. Murphy
Assistant General Counsel
Ward L. Smith
Associate General Counsel
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 84941
(215) 568-3389 (FAX)
kent.murphy@exeloncorp.com

November 8, 2001

John H. Isom
Morgan Lewis & Bockius LLP
One Commerce Square
417 Walnut Street
Harrisburg, PA 17101
Counsel for PPL Electric Utilities Corporation

W. Edwin Ogden, Esquire
Ryan Russell Ogden & Seltzer LLP
Suite 301, 1100 Berkshire Boulevard
Reading, PA 19610
Counsel for Metropolitan Edison & Penelec

Stephen L. Feld, Senior Attorney
Pennsylvania Power Company
76 S. Main Street
Akron, OH 44308

Irwin A. Popowsky, Esquire
Office of the Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101
Counsel for OCA

Kenneth L. Mickens, Esquire
Pennsylvania Public Utility Commission
Office of Trial Staff
901 N. 7th St., 3rd Floor
Harrisburg, PA 17102

RECEIVED
2001 NOV 19 AM 10:29
PAPUC
SECRETARY'S BUREAU



ORIGINAL

OFFICE OF CONSUMER ADVOCATE

555 Walnut Street 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

P.U.C. SECRETARY'S OFFICE FAX (717) 783-7152
E-Mail: paoca@ptd.net

IRWIN A. POPOWSKY
Consumer Advocate

November 19, 2001

DOCUMENT
FOLDER

James J. McNulty, Secretary
PA Public Utility Commission
400 North Street
P.O. 3265
Harrisburg, PA 17105-3265

Re: Duquesne Light Company Rate Change to State
Tax Adjustment Surcharge to Implement 2002
Revenue Neutral Reconciliation
Docket No. R-00016854

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Answer in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Tanya J. McCloskey
Senior Assistant Consumer Advocate

Enclosures

cc: All parties of record

66343

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

RECEIVED

NOV 19 PM 4:17

P.A.U.C.
SECRETARY'S BUREAU

PETITION OF DUQUESNE LIGHT
FOR WAIVER

Docket No. R-00016854

OFFICE OF CONSUMER ADVOCATE'S ANSWER
TO DUQUESNE LIGHT COMPANY'S PETITION
FOR WAIVER

DOCKETED
NOV 20 2001

DOCUMENT
FOLDER

On October 29, 2001, Duquesne Light Company (Duquesne) filed a Petition for Waiver and a Request For Recovery of the Revenue Neutral Reconciliation Tax Liability Producing Rates Above the Rate Cap. In its Petition for Waiver, Duquesne requests that the Commission regulation at Section 54.95(c)(4), which requires that the surcharge implementing recovery of the RNR tax liability become effective in 60 days, be waived so that its increased RNR tax liability can be implemented at the same time that its CTC is set to expire for Rate RS customers. Duquesne seeks this waiver so that its customers will experience only one rate change. In addition, Duquesne seeks a waiver of the requirement that it perform its annual STAS recalculation on a calendar year basis if a delay in the implementation of the STAS is granted.

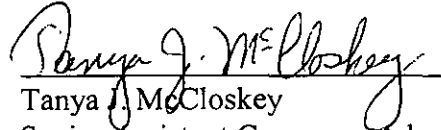
The Office of Consumer Advocate does not oppose Duquesne's request for a waiver and a delay in the implementation of the STAS to recover the RNR tax liability. As set forth in the accompanying Complaint, however, the OCA submits that Duquesne must still establish that

recovery of the RNR tax liability above the rate cap is just and reasonable, even as to the delayed or deferred portion of the STAS.

01 NOV 19 PM 4:17

P.A.U.C.
SECRETARY'S BUREAU

Respectfully submitted,



Tanya J. McCloskey
Senior Assistant Consumer Advocate
Office of Attorney General
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923

DATED: November 19, 2001
66398

CERTIFICATE OF SERVICE

Re: Duquesne Light Company Rate Change to State
Tax Adjustment Surcharge to Implement 2002
Revenue Neutral Reconciliation
Docket No. R-00016854

RECEIVED

01 NOV 19 PM 4:17

PA.P.U.C.
SECRETARY'S BUREAU

I hereby certify that I have this day served a true copy of the foregoing document the Office of Consumer Advocate's Answer, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 19th day of November, 2001.

SERVICE BY INTEROFFICE MAIL

Kenneth L. Mickens, Esq.
Office of Trial Staff
Pa Public Utility Commission
400 North Street
Harrisburg, PA 17105-6532

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

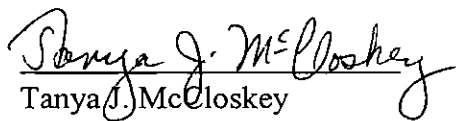
Daniel P. Delaney
Kirkpatrick & Lockhart LLP
Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101

David M. Kleppinger
McNees, Wallace & Nurick
PO Box 1166
100 Pine Street
Harrisburg, PA 17108

Kent D. Murphy
Assistant General Counsel
Ward L. Smith
Associate General Counsel
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19103

Office of Small Business Advocate
Suite 1102, Commerce Bldg.
300 North Second Street
Harrisburg, PA 17101

David Epple, Esquire
Energy Association of Pennsylvania
800 N. Third Street
Harrisburg, PA 17102



Tanya J. McCloskey

Stephen J. Keene

Senior Assistant Consumer Advocates

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
66345

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

ORIGINAL

Bernard A. Ryan, Jr
Small Business Advocate

November 28, 2001

(717) 783-2525
(717) 783-2831 (FAX)

HAND DELIVERED

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P. O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

Re: Duquesne Light Company Rate Change to
State Tax Adjustment Surcharge to Implement
2002 Revenue Neutral Reconciliation
Docket No. R-00016854

Dear Secretary McNulty:

I am delivering for filing today the original plus three copies of the:

1. Notice of Intervention of the Small Business Advocate in the above captioned matter; and
2. Public Statement of the Small Business Advocate relating to the filing of that Notice of Intervention.

Copies of each of the documents listed above are being served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

Sincerely,

Angela T. Jones /cf

Angela T. Jones
Assistant Small Business Advocate

Enclosures

cc: Hon. Robert A. Christianson
Chief Administrative Law Judge

Parties of Record

Brian Kalcic

6

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

ORIGINAL

Bernard A. Ryan, Jr
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

November 28, 2001

ALL PARTIES OF RECORD AT DOCKET NO. R-00016854:

Re: Duquesne Light Company Rate Change to
State Tax Adjustment Surcharge to Implement
2002 Revenue Neutral Reconciliation
Docket No. R-00016854

Vertical stamp: RECEIVED NOV 29 10 10 AM '01

The Office of Small Business Advocate has retained the services of Brian Kalcic as its expert witness in this case. In order to provide our consultant all materials, including discovery, testimony, briefs, etc., in a timely fashion, we request that you add the name of Mr. Kalcic to your service lists so that he receives copies of documents when they are served in this case. Those items should be addressed to:

DOCUMENT FOLDER

Mr. Brian Kalcic
Excel Consulting
Suite 720-T
225 S. Meramec Avenue
St. Louis, MO 63105
(314) 725-2511
(314) 725-2022 - Fax

DOCKETED
NOV 29 2001

If you have any questions or concerns, please do not hesitate to contact me. Thank you in advance for your cooperation.

Sincerely,

Angela T. Jones

Angela T. Jones
Assistant Small Business Advocate

cc: Brian Kalcic

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

DUQUESNE LIGHT COMPANY :
RATE CHANGE TO STATE TAX ADJUSTMENT :
SURCHARGE TO IMPLEMENT 2002 REVENUE : Docket No. R-00016854
NEUTRAL RECONCILIATION :

RECEIVED
GENERAL INVESTIGATIVE DIVISION
NOV 29 2001

Office of
Small Business Advocate
Notice of Intervention

The Office of Small Business Advocate, an agency of the Commonwealth authorized by the Small Business Advocate Act (Act 181 of 1988, 73. P.S. §§399.41 - 399.50) to represent the interest of small business consumers as a party in proceedings before the Pennsylvania Public Utility Commission, files this Notice of Intervention in this proceeding pursuant to the provisions of 52 Pa. Code §5.71(a)(1).

Representing the Office of Small Business Advocate in this proceeding is:

Angela T. Jones
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101
(717) 783-2525
(717) 783-2831

**DOCUMENT
FOLDER**

DOCKETED
NOV 29 2001

Angela T. Jones
Angela T. Jones /s/
Assistant Small Business Advocate

Dated: November 28, 2001

PUBLIC STATEMENT OF
SMALL BUSINESS ADVOCATE
CONCERNING THE INTEREST
OF SMALL BUSINESS CONSUMERS
TO BE PROTECTED BY THE FILING OF A
NOTICE OF INTERVENTION
IN THE PROCEEDINGS INVOLVING
DUQUESNE LIGHT COMPANY
AT DOCKET NO. R-00016854

The Small Business Advocate is authorized and directed to represent the interest of small business consumers of utility services in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§399.41 - 399.50 (the "Act"). The Act further provides that the Small Business Advocate is to issue publicly a written statement setting forth the specific interest of small business consumers to be protected by the intervention in any proceeding involving those interests before the Public Utility Commission ("PUC" or "Commission"). This public statement relates to the filing today by the Small Business Advocate of a notice of intervention in the proceedings involving Duquesne Light Company's Rate Change to State Tax Adjustment Surcharge to Implement 2002 Revenue Neutral Reconciliation at Docket No. R-00016854.

On October 29, 2001, Duquesne Light Company filed a single issue rate proceeding to recover the Revenue Neutral Reconciliation tax liability that produced rates above Duquesne's rate cap. The Office of Small Business Advocate ("OSBA") has intervened in this proceeding to assure that the interests of the small business customers served by Duquesne are adequately represented and protected.

The OSBA will participate in this proceeding to the extent necessary to identify and advance any issues that are important to small business consumers who will be affected by this proceeding.

Date: November 28, 2001

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DUQUESNE LIGHT COMPANY :
RATE CHANGE TO STATE TAX ADJUSTMENT :
SURCHARGE TO IMPLEMENT 2002 REVENUE : Docket No. R-00016854
NEUTRAL RECONCILIATION :

CERTIFICATE OF SERVICE

I certify that I am serving a copy of the Notice of Intervention on behalf of the Office of Small Business Advocate by first class mail upon the persons addressed below:

Hon. Robert A. Christianson
Chief Administrative Law Judge
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(hand delivered)

Tanya J. McCloskey, Esquire
Office of Consumer Advocate
555 Walnut Street
5th FL Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
(717) 783-7152

Daniel P. Delaney, Esquire
Kirkpatrick & Lockhart
240 North Third Street
Harrisburg, PA 17101-1503
(717) 231-4500
(717) 231-4501 (fax)

Kenneth L. Mickens, Esquire
Office of Trial Staff
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-1976
(717) 772-2677 (fax)

Kent D. Murphy, Esquire
Assistant General Counsel
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-4941
(215) 568-3389 (fax)

David M. Kleppinger, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(717) 236-2665 (fax)

David Epple, Esquire
Energy Association of Pennsylvania
800 North Third Street
Harrisburg, PA 17102

STATIONER'S BUREAU
NOV 29 PM 3:10

Angela T Jones

Angela T. Jones
Assistant Small Business Advocate

Date: November 28, 2001



McNees Wallace & Nurick LLC
attorneys at law

ORIGINAL

KAREN S. MILLER ORNER
DIRECT DIAL: (717) 237-5359
E-MAIL ADDRESS: KORNER@MWN.COM

November 28, 2001

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

VIA HAND DELIVERY

**Re: Duquesne Light Company Rate Change to State Tax Adjustment
Surcharge to Implement 2002 Revenue Neutral Reconciliation;
Docket No. R-00016854**

Dear Secretary McNulty:

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

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

RECORDED
01 NOV 28 PM 2:11
SECRETARY'S BUREAU

Very truly yours,

MCNEES WALLACE & NURICK LLC

By *Karen S. Miller Orner*
Karen S. Miller Orner

Counsel to the Duquesne Industrial Intervenors

KSMO

Enclosures

- c: Chief Administrative Law Judge Robert Christianson (via hand delivery)
- Judy Weaver, Scheduling Officer (via hand delivery)
- Certificate of Service

63

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):

VIA HAND DELIVERY

Kenneth L. Mickens, Esq.
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120

Tanya J. McCloskey, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1921

Office of Small Business Advocate
300 North 2nd Street, Suite 1102
Harrisburg, PA 17101

VIA FACSIMILE AND FIRST-CLASS MAIL

Kent D. Murphy, Esq.
Assistant General Counsel
Ward L. Smith, Esq.
Associate General Counsel
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19103

David Epple, Esq.
Energy Association of Pennsylvania
800 North Third Street
Harrisburg, PA 17102

Daniel P. Delaney, Esq.
Kirkpatrick & Lockhart LLP
Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101

Karen S. Miller Orner
Karen S. Miller Orner

Dated this 28th day of November, 2001, in Harrisburg, Pennsylvania.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Duquesne Light Company Rate Change :
to State Tax Adjustment Surcharge to Implement : Docket No. R-00016854
2002 Revenue Neutral Reconciliation :

**DUQUESNE INDUSTRIAL INTERVENORS
PETITION TO INTERVENE**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Sections 5.71 through 5.74 of the Regulations of the Pennsylvania Public Utility Commission ("PUC" or "Commission"), the Duquesne Industrial Intervenors ("DII" or "Petitioner") hereby files this Petition To Intervene in the above-captioned proceeding. In support thereof, Petitioner avers as follows:

1. Petitioner is DII, which for purposes of this proceeding includes the companies listed on Attachment "A" to this Petition. The list and Attachment "A" will be updated, as necessary, if the composition of DII changes during the course of this proceeding.

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

David M. Kleppinger
Pamela C. Polacek
Karen S. Miller Orner
McNEES WALLACE & NURICK LLO
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300
dkleppin@mwn.com
ppolacek@mwn.com
korner@mwn.com

DOCKETED
DEC 04 2001

**DOCUMENT
FOLDER**

SECRETARY'S BUREAU

01 NOV 28 PM 2:24

3. DII is an ad hoc coalition of large, energy-intensive industrial consumers of electricity located within the service territory of Duquesne Light Company ("Duquesne" or "Company"). DII members purchase service from Duquesne primarily under Rate Schedules GL, L, and HVPS and available riders. DII has been actively involved in Duquesne's restructuring process as an intervenor in the Company's restructuring proceeding. By virtue of their payment of Duquesne's State Tax Adjustment Surcharge, DII members are directly affected by the Commission's resolution of the above-captioned proceeding.

WHEREFORE, the Duquesne Industrial Intervenors respectfully requests that the Commission grant this Petition To Intervene and provide the Duquesne Industrial Intervenors with full-party status in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Karen S. Miller Orner

David M. Kleppinger
Pamela C. Polacek
Karen S. Miller Orner
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to the Duquesne Industrial Intervenors

Dated: November 28, 2001

91 NOV 28 PM 2:24
SECRETARY'S BUREAU

Attachment "A"

Duquesne Industrial Intervenors

Armstrong World Industries, Inc.

BOC Gases

Galvtech

General Motors Corporation

J&L Specialty Steel, Inc.

Koppel Steel

United States Steel LLC

DATE: November 30, 2001

SUBJECT: R-00016850; R-00016852; R-00016853; R-00016854; R-00016856

TO: Bureau of Fixed Utility Services

FROM: James J. McNulty, Secretary

LAF

R-00016850: PPL Electric Utilities Corporation's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016852: Metropolitan Edison Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016853: Pennsylvania Electric Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016854: Duquesne Light Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016856: PECO Energy Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

Attached are copies of Petitions to Intervene filed in connection with the above docketed proceedings by the following: PP&L Industrial Customer Alliance; Met-Ed Industrial Users Group; Penelec Industrial Customer Alliance; Duquesne Industrial Intervenors; Philadelphia Area Industrial Energy Users Group

This matter is assigned to your Bureau for appropriate action.

Attachments

cc: OTS

laf

DOCUMENT
FOLDER

DOCKETED
DEC 04 2001

RHOADS & SINON LLP

ROBERT H. LONG, JR.¹
SHERILL T. MOYER
JAN P. PADEN
RICHARD B. WOOD
LAWRENCE B. ABRAMS III²
J. BRUCE WALTER
JOHN P. MANBECK
FRANK J. LEBER
PAUL A. LUNDEEN
JACK F. HURLEY, JR.
DAVID B. DOWLING
DAVID F. O'LEARY
DAVID O. TWADDELL
CHARLES J. FERRY
STANLEY A. SMITH
JENS H. DAMGAARD³
DRAKE D. NICHOLAS
THOMAS A. FRENCH
DEAN H. DUSINBERRE
DONNA M.J. CLARK
CHARLES E. GUTSHALL
PAUL F. WESSELL
SHAWN D. LOCHINGER

JAMES H. CAWLEY
DEAN F. PIERMATTEI
KENNETH L. JOEL¹
DEBRA M. KRIETE
TODD J. SHILL
LORI J. MCELROY
THOMAS J. NENILLA
KEVIN M. GOLD
CARL D. LUNDBLAD
JAMES E. ELLISON
RICHARD E. ARTELL
ROBERT J. TRIBECK
TIMOTHY J. NIEMAN
PAUL J. BRUDER, JR.⁴
JOANNE BOOK CHRISTINE
AMY J. MENDELSON⁵
MICHAEL W. WINFIELD¹
KATHRYN G. SOPHY¹
STEPHANIE E. DIVITTORRE
KIMBERLY L. SNELL-ZARCONE
KATHLEEN D. BRUDER^{4,5}
CHRISTYLEE L. PECK
JOHN M. COLES

¹ ALSO ADMITTED TO THE DISTRICT OF COLUMBIA BAR
² ALSO ADMITTED TO THE FLORIDA BAR
³ ALSO ADMITTED TO THE MARYLAND BAR
⁴ ALSO ADMITTED TO THE NEW JERSEY BAR
⁵ ALSO ADMITTED TO THE NEW YORK BAR

ATTORNEYS AT LAW
TWELFTH FLOOR
ONE SOUTH MARKET SQUARE
P.O. BOX 1146
HARRISBURG, PA 17108-1146

TELEPHONE (717) 233-5731

FAX (717) 231-6600

EMAIL ksophy@rroads-sinon.com

WEBSITE: www.rroads-sinon.com

December 7, 2001

OF COUNSEL
HENRY W. RHOADS
JOHN C. DOWLING
R. STEPHEN SHIBLA

RETIRED
FRANK A. SINON

PAUL H. RHOADS
1907-1984
JOHN M. MUSSELMAN
1919-1980
CLYLE R. HENDERSHOT
1922-1980

DIRECT DIAL NO.
(717) 237-6736

FILE NO.
7135/1

Re: RNR Filings for
Pike County Power & Light Company, R-00016849C001
PPL Electric Utilities, R-00016850C001
Pennsylvania Power Company, R-00016851C001
Metropolitan Edison Company, R-00016852C001
Pennsylvania Electric Company, R-00016853C001
Duquesne Light Company, R-00016854C001
UGI Utilities -Electric Division, R-00016855C001
PECO Energy Company, R-00016856C001
West Penn Power Company, R-00016857C001

VIA HAND DELIVERY


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

Dear Secretary McNulty:

Enclosed please find an original and three copies of the Mid-Atlantic Power Supply Association's Petitions to Intervene in the above-captioned dockets.

Sincerely,

RHOADS & SINON LLP

By: 
Kathryn G. Sophy

Cc: Certificate of Service

DOCUMENT
FOLDER

RECEIVED
01 DEC - 7 PM 4: 19
PA P.U.C.
SECRETARY'S BUREAU

59

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Duquesne Light Company Filing for :
Single Issue Rate Case Proceeding :
Under 66 Pa. C.S. §1308(a) for : Docket No. R-00016854C0001
Recovery of Revenue Neutral :
Reconciliation (RNR) Tax Liability :
Producing Rates Above the Rate Cap :

DOCUMENT
FOLDER

Pa. P.U.C.
SECRETARY'S BUREAU

01 DEC -7 PM 4:20

RECEIVED

PETITION TO INTERVENE OF
MID-ATLANTIC POWER SUPPLY ASSOCIATION

Now comes the Mid-Atlantic Power Supply Association ("MAPSA"), pursuant to 52 Pa. Code § 5.71 *et seq.*, and hereby petitions to intervene in the above-captioned proceeding. In support of this petition, MAPSA states as follows:

1. MAPSA is an association of power marketers, independent power producers, and a broad range of companies who support the electric services industry with an interest in the emerging electric power supply market within the Commonwealth of Pennsylvania and the Mid-Atlantic region.¹

¹ MAPSA's Board of Directors includes representatives of Amerada Hess; Calpine Eastern; Chevron Energy Solutions; DTE Energy Marketing, Inc.; Green Mountain Energy Company; Odyssey Strategies, Inc.; PG&E National Energy Group; Shell Energy Services Co., LLC; and Strategic Energy L.L.C. This filing represents the position of MAPSA as an organization, *but not necessarily* the views of any particular member with respect to any specific issue.

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

James H. Cawley
Kathryn G. Sophy
One South Market Square
P.O. Box 1146
Harrisburg, PA 17108
717.233.5731
717.231.6600 (fax)
jcawley@rroads-sinon.com
ksophy@rroads-sinon.com

3. On October 29, 2001, Duquesne Light Company ("Duquesne") filed with the Commission a tariff supplement to recover increased tax obligations associated with an increase in the Gross Receipts Tax ("GRT") through the Revenue Neutral Reconciliation ("RNR") charge.

4. On November 19, 2001, the Office of Consumer Advocate filed a complaint against Duquesne, arguing that Duquesne's request will result in charges that exceed the statutory rate cap.

5. MAPSA has no objection to an EDC recovering costs associated with the RNR, provided those costs are recovered in a competitively-neutral manner. However, recovery of these costs through mechanisms which potentially extend CTC recovery, conceal the increased tax recovery or otherwise tilt the competitive playing field would result in direct harm to EGSs that operate or intend to operate within Duquesne's distribution territory.

6. The standard for eligibility to intervene is set forth in 52 Pa. Code § 5.72:

A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

- (1) A right conferred by statute of the United States or the Commonwealth.

- (2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.
- (3) Another interest of such nature that participation of the petitioner may be in the public interest.

52 Pa. Code § 5.72(a).

7. MAPSA meets the eligibility standards set forth in 52 Pa. Code § 5.72(a). As an organization whose members include alternative generation suppliers licensed to do business in Pennsylvania, MAPSA has an interest that may be directly affected by this proceeding. MAPSA members operating or intending to operate within Duquesne's distribution territory must compete against Duquesne's provider of last resort ("POLR") service. In offering customers a "price to compare" against Duquesne's shopping credit, EGSs must recover the same RNR increase from their customers through the price to compare. If Duquesne's shopping credit does not include the RNR increase, but Duquesne is permitted to collect that increase in another manner, customers are no longer comparing like products. EGSs are disadvantaged because their prices appear to be that much higher than the EDC's prices. Accordingly, how the Commission permits recovery of this tax increase will have a direct impact on Mid-Atlantic Power Supply Association members' potential customer base and potential revenue.

8. MAPSA's interest in this proceeding is not adequately represented by existing participants, none of whom are believed to be suppliers or marketers of electric generation.

9. In addition, MAPSA may be bound by the action of the Commission in this proceeding. The Commission has the authority to direct how recovery of the RNR increase will be made. The Commission's actions will determine whether competitive suppliers are unharmed or competitively disadvantaged.


10. Finally, MAPSA's intervention is in the public interest. Through the Competition Act, the Pennsylvania Legislature declared retail electric generation competition to be in the public interest. MAPSA members, as competitive suppliers, have a direct interest in maintaining/supporting the competitive environment.

WHEREFORE, the Mid-Atlantic Power Supply Association respectfully request your Honor to grant this Petition to Intervene.

Respectfully Submitted,

RHOADS & SINON LLP

By:


Kathryn G. Sophy
James H. Cawley
One South Market Square
P. O. Box 1146
Harrisburg, PA 17108-1146
(717) 233-5731

Dated: December 7, 2001

Attorneys for
Mid-Atlantic Power Supply Association

RECEIVED
01 DEC -7 PM 4:25
MAPSA
SECRETARY'S BUREAU

RECEIVED

DEC 07 2001

CERTIFICATE OF SERVICE

PUBLIC UTILITY COMMISSION

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:

SERVICE BY FIRST CLASS U.S. MAIL:

Tanya McCloskey
Stephen J. Keene
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17120

Carol Pennington
Acting Small Business Advocate
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North 2nd Street
Harrisburg, PA 17101

Kenneth L. Mickens
Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

W. Edwin Ogden
Jeffrey A. Franklin
Ryan Russell Ogden & Seltzer
1100 Berkshire Blvd., Ste. 301
Reading, PA 19610-1221

Susan Bruce
David Kleppinger
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Brian D. Crowe
Director, Rates & Governmental Affairs
PECO Energy Company
2301 Market Street, S15-2
P.O. Box 8699
Philadelphia, PA 19101-8699

David O. Epple
Energy Association of Pennsylvania
800 N. Third Street
Harrisburg, PA 17102

Stephen L. Feld
First Energy Corp.
76 South Main Street
Akron, OH 44308

Daniel P. Delaney
Kirkpatrick & Lockhart LLP
240 North Third Street
Harrisburg, PA 17101-1923

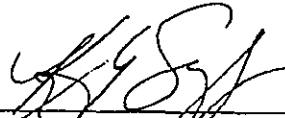
John L. Munsch, Esquire
Allegheny Energy
800 Cabin Hill Drive
Greensburg, PA 15601-1689

Paul E. Russell
PPL Utilities
Two North Ninth Street
Allentown, PA 18101

Todd S. Stewart
Malatesta Hawke & McKeon LLP
Harrisburg Energy Center
100 North Tenth Street
Harrisburg, PA 17101

Mark R. Dingman
UGI Utilities, Inc.
Electric Division
400 Stewart Road
P.O. Box 3200
Wilkes-Barre, PA 18773-3200

Michael Hassell
One Commerce Square
417 Walnut Street
Harrisburg, PA 17101-1904



Kathryn G. Sophy

Dated: December 7, 2001

Kirkpatrick & Lockhart LLP

RECEIVED

01 DEC 10 PM 4:09

PA.P.U.C.
SECRETARY'S BUREAU

Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101-1507
17.231.4500
www.kl.com

ORIGINAL

December 10, 2001

VIA HAND DELIVERY

Daniel P. Delaney
717.231.4516
Fax: 717.231.4501
ddelaney@kl.com

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

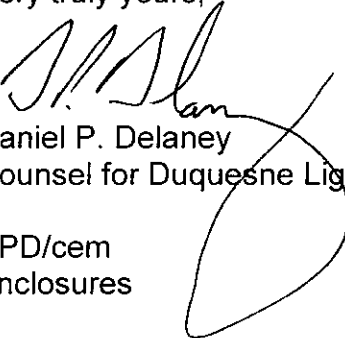
Re: Pennsylvania Public Utility Commission v. Duquesne Light Company
Docket Nos. R-00016854, R-00016854C0001

Dear Secretary McNulty:

Enclosed please find an original and three copies of the Answer of Duquesne Light Company to the Office of Consumer Advocate's Complaint in the above captioned matter.

Copies of this document are being served on the parties to this proceeding as indicated in the enclosed Certificate of Service.

Very truly yours,



Daniel P. Delaney
Counsel for Duquesne Light Company

DPD/cem
Enclosures

cc: Service List

**DOCUMENT
FOLDER**

65

HA-113518 v1 0121423-0615

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
01 DEC 10 PM 4:09

Pennsylvania Public Utility Commission :
v. :
Duquesne Light Company :

PA.P.U.C.
SECRETARY'S BUREAU
Docket Nos. R-00016854
R-00016854C0001

CERTIFICATE OF SERVICE

I hereby certify that I have this day served true and correct copies of the foregoing Answer upon the individuals, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

Via First Class Mail

Charles F. Hoffman, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Irwin A. Popowsky, Esquire
Tanya J. McCloskey, Esquire
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1923

Carol F. Pennington, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 N. Second Street
Harrisburg, PA 17101

David M. Kleppinger, Esquire
Susan Bruce, Esquire
McNees, Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Kent D. Murphy, Esquire
Ward L. Smith, Esquire
PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19103

James H. Cawley, Esquire
Kathryn G. Sophy, Esquire
Rhoads & Sinon, LLP
One South Market Square, 12th Floor
P.O. Box 1146
Harrisburg, PA 17108-1146

RECEIVED
01 DEC 10 PM 4:09
PA.P.U.C.
SECRETARY'S BUREAU



Daniel P. Delaney

Kirkpatrick & Lockhart LLP
240 North Third Street
Harrisburg, PA 17101-1507
(717) 231-4500
(717) 231-4501 (Fax)
ddelaney@kl.com

Counsel for Duquesne Light Company

Dated: December 10, 2001

ORIGINAL
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
01 DEC 10 PM 4:09

Pennsylvania Public Utility Commission :

v. :

Duquesne Light Company :

Docket Nos. R-00016854
R-00016854C0001

PA.P.U.C.
SECRETARY'S BUREAU

**ANSWER OF DUQUESNE LIGHT COMPANY TO
THE COMPLAINT OF THE OFFICE OF CONSUMER ADVOCATE.**

Duquesne Light Company ("Duquesne"), by its counsel Kirkpatrick & Lockhart LLP, files this answer to the Complaint of the Office of Consumer Advocate ("OCA") pursuant to Section 5.61(a) of the Public Utility Commission's ("Commission's") regulations, 52 Pa. Code §5.61(a). In support of its answer, Duquesne respectfully represents the following:

Introduction

Prior to responding to the specific averments of the OCA's Complaint, Duquesne provides the following general statement of its position concerning the issues raised by the complaint. On October 29, 2001, Duquesne filed a single-issue rate proceeding under Section 1308(a) of the Public Utility Code, 66 Pa. C.S. §1308(a), for recovery of Revenue Neutral Reconciliation ("RNR") tax liability producing rates above Duquesne's rate cap. Duquesne filed this single-issue rate proceeding pursuant to the procedures identified in Section 2804(16)(ii) of the Public Utility Code, 66 Pa. C.S. §2804(16)(ii),

DOCKETED
DEC 12 2001

and Section 54.95 of the Commission's regulations, 52 Pa. Code §54.95.¹ Duquesne filed this proceeding as a result of a notice published by the Pennsylvania Department of Revenue in the Pennsylvania Bulletin, 31 Pa.B. 5507 (September 29, 2001), identifying a new RNR tax rate of .016 to be imposed upon the utilities' gross receipts tax for the period January 1, 2002 to December 31, 2002.² Duquesne estimated that the increase in the RNR tax rate for the calendar year 2002 will create an estimated tax liability for Duquesne of \$15,021,313. As a result of this increase, recovery of the 2002 RNR tax liability will produce rates above Duquesne's existing rate cap.

Section 2804(16)(ii) permits an electric distribution company ("EDC") to file a "single-issue rate proceeding under Section 1308(a) to recover its tax liability when RNR increases cause it to exceed its rate cap." The Commission is required by that section to adjudicate the rate proceeding within 60 days. Duquesne filed its single-issue rate proceeding pursuant to Section 54.95 of the Commission's regulations, 52 Pa. Code §54.95, which identifies the procedure for an EDC to recover RNR tax liability which produce rates above the EDC's rate cap. Section 54.95 specifies the procedure to be followed and the information that must be filed in support of the rate increase. Duquesne's October 29, 2001 single-issue rate filing follows the procedure established in Section 54.95 and provides the information in support of the rate increase identified in that regulation. In support of its filing, Duquesne also filed the supporting information

¹ Duquesne also filed a Petition for Waiver of certain regulatory and tariff provisions so as to implement its STAS in March 2002 to coincide with the expiration of the CTC for Duquesne Rate RS customers. The OCA does not oppose that Petition.

² The Department of Revenue recently revised its RNR tax rate calculation to .015 (15 mills) in a notice published at 31 Pa.B. 6586 (December 1, 2001). Duquesne will incorporate the final RNR tax rate in its STAS filing which will be made on or before December 31, 2001.

required by Sections 53.52(a) and 53.52(b) of the Commission's regulations, 52 Pa. Code §53.52(a) and (b).

In its complaint, the OCA has alleged that Duquesne has not provided sufficient information in its filing to substantiate that an exception to the rate cap is necessary, specifically noting that Duquesne did not file rate of return information or identify any expense or tax savings that could offset the increased tax liability. Duquesne submits that its single-issue rate increase is consistent with Section 2804(16)(ii) and provides all of the information required by the Commission under the procedures promulgated for these types of cases.

Section 2804(16)(ii) clearly states that the EDC is to file a single-issue rate proceeding under Section 1308(a). Duquesne submits that the section's reference to a "single issue" evidences the legislative intent that the Commission examine increases in RNR tax liability in proceedings which are limited to that one issue. The OCA's attempts to introduce additional issues such as rate of return and operating expenses for purposes of determining whether there have been offsetting savings in other areas are simply outside of the scope of the section's very specific reference to Section 1308(a). The issues identified by the OCA are to be examined in a general base rate case whose procedures are identified in Section 1308(d) of the Public Utility Code, 66 Pa. C.S. §1308(d). Duquesne submits that the section's specific reference to Section 1308(a) is designed to limit the issues that should be examined in cases initiated under that section. Moreover, the limited period in which such cases are to be decided by the Commission (60 days) is additional evidence that the single-issue proceeding should only involve the issue of the EDC's tax liability. Section 1308(d) provides that general

base rate cases are subject to a seven-month suspension period rather than the two-month period defined in Section 2804(16)(ii). The shorter suspension period is additional evidence of the legislative intent to limit proceedings under that section to the single issue of the EDC's recovery of its RNR liability.

The OCA's complaint also argues that Duquesne was required to file the information identified in Section 53.52(c) regarding rate of return as part of its single-issue rate filing. Duquesne submits that no such requirement is contained in the specific Commission regulation on these filings (Section 54.95) and that Duquesne has filed all of the information required for the Commission's adjudication of its request. The case cited by the OCA in its complaint in support of its argument that rate of return and expense information are required does not support that argument.

In Popowsky v. Pennsylvania Public Utility Commission, 683 A.2d 958 (Pa. Commonwealth Ct. 1996), the Court affirmed a Commission Order adjudicating a \$1.7 million, non-general rate increase filed by the Equitable Gas Company to recover expenses caused by changed accounting requirements for employee benefits. In response to OCA arguments concerning the issues that must be examined by the Commission in a non-general base rate proceeding, the Court held that the Commission may issue a rate order in such a case based only on the general information required by Section 53.52(b) of the Commission's regulations and that the expense and rate of return information required by Section 53.52(c) were not required. In rejecting the OCA's argument that a non-general base rate case required the utility to file expense and rate of return information, the Court stated:

Although in its brief the OCA seems to argue that the same evidentiary burden should apply to Equitable in this

contested, non-general rate case as in a general rate case, requiring it to provide specific information on each aspect of its capital and rate of return, it abandoned that argument at oral argument. In response to such an argument, we would agree with the PUC that the statutory and regulatory scheme does not make the same full-blown standards applicable. If such a high standard applied, there would be no significant difference between non-general rate filings under Section 1308(b) and the general rate filings under Section 1308(d). To the contrary, because of a modest nature of non-general rate filings, as required by the statute, we believe the PUC may determine whether the public utility's rates are just and reasonable based upon the general information required under 52 Pa. Code §53.52(b). That the non-general rate filing may be contested does not increase Equitable's evidentiary burden or limit the PUC's discretion.

683 A.2d at 962 (emphasis added).

As recognized by the Commonwealth Court in Popowsky, the scope of non-general rate cases is not as broad as a general rate case proceeding and does not include the examination of rate of return and expense information required by the Commission's regulation at 52 Pa. Code 53.52(c).

The General Assembly enacted Section 2804(16)(ii) for the recovery of increased RNR liability as part of the Electricity Generation Customer Choice and Competition Act in 1996 which was subsequent to the Court's Popowsky decision. The Commission's regulation at 52 Pa. Code §54.95 was specifically promulgated to implement Section 2804(16)(ii). Duquesne submits that this subsequent legislative enactment and regulation conclusively establish the limited scope of a single-issue rate proceeding pursuant to Section 2804(16)(ii). Such a result is consistent with the relevant provisions of the Statutory Construction Act of 1972. Section 1933 of the Act, 1 Pa. C.S. §1933, provides that when a general provision in a statute is in conflict with a special provision, the special provision shall prevail and shall be construed as an

exception to the general provision. Section 1934 of that Act, 1 Pa. C.S. §1934, provides that whenever in the same statute several clauses are irreconcilable, the clause last in order of date or position shall prevail. Duquesne submits that consistent with these provisions of the Statutory Construction Act, Section 2804(16)(ii), as a later enacted provision specifically addressing an EDC's recovery of increased RNR tax liability, should prevail over any general inconsistent prior provision of the Public Utility Code. To the extent that a broader examination of issues was possible in single-issue cases under prior interpretations of Section 1308(a), the later enactment of Section 2804(16)(ii) now controls the scope of these proceedings. Moreover, the Commission's specific regulation defining the information submission requirements (Section 54.95) must prevail over any general filing requirement provision previously contained in the Commission's regulations.

The OCA's complaint also argues that Duquesne may defer recovery of the RNR increase until a later time when the increase can be implemented within Duquesne's rate cap. Duquesne has already requested a partial deferral by the Commission to minimize the rate impact upon its customers in the Petition for Waiver filed with its single-issue rate increase request. In that Petition, Duquesne requests the Commission to delay the start of the STAS implementing the 2002 RNR rate until March 2002 to coincide with the expiration of the CTC for its Rate RS customers. Delaying the STAS until March 2002 eliminates the issue of Duquesne's rates exceeding the rate cap for approximately 500,000 customers, or nearly 85% of Duquesne's customers. Duquesne requested the waiver to maintain rate stability in the short term and to avoid customer confusion generated by a STAS rate increase in January 2002 followed by a rate

decrease in March 2002 as a result of the cessation of Duquesne's CTC and the implementation of the POLR II generation rates. On this basis, Duquesne submits that it has already taken steps to lessen the impact on its customers as a result of the RNR tax increase and no additional deferral is required.

Answer

Duquesne submits the following specific responses to the averments of the OCA's Complaint.

1. Admitted.
2. Admitted.
- 3(A). Admitted.
- 3(B). Admitted.
- 3(C). Admitted.
- 3(D). Admitted.
- 3(E). Admitted.

3(F). Denied. This paragraph of the OCA Complaint contains conclusions of law which are denied. Duquesne submits that the scope of a Section 2804(16)(ii) proceeding is limited to the single issue of the recovery of the EDC's RNR tax liability and does not encompass issues of rate of return or expense levels. This conclusion is supported by the specific wording of Section 2804(16)(ii) and the Commission's regulation at Section 54.95, 52 Pa. Code §54.95, which identifies the information which the EDC must file for such a proceeding. The case cited in this paragraph of the OCA Complaint (Popowsky v. Pennsylvania Public Utility Commission, 683 A.2d 958 (Pa. Commonwealth Ct. 1996)) does not support the OCA's argument that additional issues

must be examined by the Commission in its adjudication. That case upheld the Commission's discretion to limit its review of issues in non-general base rate cases. Duquesne's filing is supported by Section 2804(16)(ii) and the Commission's regulations at Section 54.95.

3(G). Denied. Duquesne has provided all of the supporting information required by the Commission's regulation at Section 54.95 which was specifically promulgated for single-issue rate proceedings filed by an EDC pursuant to Section 2804(16)(ii). As recognized by the Commonwealth Court in Popowsky v. Pennsylvania Public Utility Commission, 683 A.2d 958, 962 (Pa. Commonwealth Ct. 1996), the Commission has the discretion in non-general rate cases to review single-issues rather than all of the issues examined in a general base rate case. Under the Rules of Statutory Interpretation codified at Sections 1933 and 1934 of the Statutory Construction Act, 1 Pa. C.S. §§1933, 1934, the later enacted Section 2804(16)(ii) is a specific provision of the Public Utility Code which controls any inconsistent general provisions concerning the scope of single-issue rate proceedings.

3(H). Denied. Since Duquesne has provided all of the information required under the Commission's filing requirements necessary for the single-issue rate case required by Section 2804(16)(ii), the Commission can determine whether any increase above Duquesne's rate cap required by the RNR increase is just and reasonable.

3(I). Denied. Duquesne's Petition for Waiver filed with the single-issue rate increase request by Duquesne is directly responsive to the concerns identified by the OCA in this paragraph. Duquesne filed that Petition for purposes of maintaining rate stability and avoiding customer confusion from multiple rate changes in a short period.

Duquesne submits that the imminent completion of its CTC recovery in 2002 for its Rate RS customers results in the PECO Energy decision cited by the OCA in this paragraph to be completely inapplicable. Duquesne respectfully submits that no additional deferral of the RNR increase is necessary or appropriate.

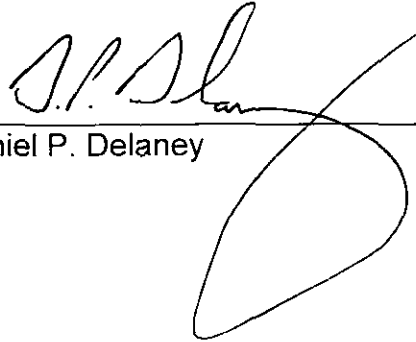
3(J). Denied. Duquesne denies that any increase in its RNR liability should be added to its "price to compare" for shopping purposes. Duquesne's recovery of the increased RNR tax liability should not be presented to customers in a way that distorts the market economics in Duquesne's service area. Duquesne submits that the Commission should permit it to recover this increased tax liability using its traditional method of recovering the expense through its STAS.

WHEREFORE, Duquesne Light Company respectfully requests the Commission to enter an Order which:

1. Dismisses the Complaint of the Office of Consumer Advocate;
2. Grants the Petition for Waiver filed in this matter by Duquesne on October 29, 2001;
3. Grants Duquesne's request for recovery of Revenue Neutral Reconciliation tax liability producing rates above the rate cap; and
4. Provides any additional relief which is just and reasonable under the circumstances.

RECEIVED
01 DEC 10 PM 4:09
PA.P.U.C.
SECRETARY'S BUREAU

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D.P. Delaney", is written over a horizontal line. A large, loopy flourish extends from the end of the signature below the line.

Daniel P. Delaney

Kirkpatrick & Lockhart LLP
240 North Third Street
Harrisburg, PA 17101-1923
(717) 231-4500
(717) 231-4501 (Fax)
ddelaney@kl.com

Counsel for Duquesne Light Company

Dated: December 10, 2001

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
01 DEC 10 PM 4:09

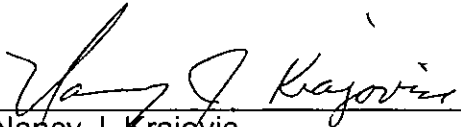
Pennsylvania Public Utility Commission :
v. :
Duquesne Light Company :

PA.P.U.C.
SECRETARY'S BUREAU

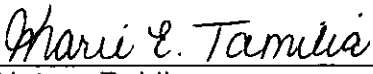
Docket Nos. R-00016854
R-00016854C0001

AFFIDAVIT

Nancy J. Krajovic, being duly sworn according to law, deposes and says that she is Manager, Regulatory Affairs of Duquesne Light Company; that she is authorized to and does make this affidavit for it; and that the facts set forth in the foregoing Answer to the Office of Consumer Advocate's Complaint are true and correct to the best of her knowledge, information, and belief, and she expects the said Duquesne Light Company to be able to prove the same at any hearing hereof.


Nancy J. Krajovic
Manager, Regulatory Affairs
Duquesne Light Company

Sworn to and subscribed before me
this 6th day of December, 2001.


Notary Public

Notarial Seal
Marie E. Tamilla, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Dec. 13, 2004
Member, Pennsylvania Association of Notaries

DATE: December 12, 2001

SUBJECT: R-00016849C0001;R-00016850C0001;R-00016851C0001;R-00016852C0001
R-00016853C0001;R-00016854C0001;R-00016855C0001;R-00016856C0001
R-00016857C0001

TO: Bureau of Fixed Utility Services

FROM: James J. McNulty, Secretary

R-00016849: Pike County Light & Power Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016850: PPL Electric Utilities Corporation's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016851: Pennsylvania Power Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016852: Metropolitan Edison Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016853: Pennsylvania Electric Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016854: Duquesne Light Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016855: UGI Utilities, Inc. - Electric Division's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016856: PECO Energy Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

R-00016857: West Penn Power Company's State Tax Adjustment Surcharge (STAS) Filing for Service Rendered on or after January 1, 2002

**DOCUMENT
FOLDER**

Attached are copies of Petitions to Intervene filed in connection with the above docketed proceedings by Mid-Atlantic Power Supply Association.

This matter is assigned to your Bureau for appropriate action.

Attachments

cc: OTS

was



Cherrington Corporate Center
400 Fairway Drive, Suite 400
Moon Township, PA 15108

Tel 412-393-3662
Fax 412-393-5602
r Herskovitz@dqe.com

Richard S. Herskovitz
Chief Regulatory Counsel

ORIGINAL

DOCUMENT
FOLDER

RECEIVED

December 14, 2001

DEC 14 2001

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

DOCKETED
DEC 18 2001

RE: Duquesne Light Company Filing for Single Issue Rate Case
Proceeding Under 66 Pa. C.S. §1308(a) for Recovery of
Revenue Neutral Reconciliation (RNR) Tax Liability
Producing Rates Above the Rate Cap
Docket No. R-00016854

Dear Secretary McNulty:

This letter is being filed to memorialize the terms of the settlement agreement arrived at earlier this week by all the parties to the above-captioned proceeding. The parties have agreed, for this proceeding only, to the following:

- Commission approval of Duquesne Light Company's ("Duquesne") filing at Docket No. R-00016854 for recovery of the Revenue Neutral Reconciliation ("RNR") tax liability as set forth therein and including any subsequent modifications to the RNR calculation directed by the Department of Revenue, and the granting of Duquesne's Petition for Waiver filed at this docket to permit Duquesne, inter alia, to waive the schedule for filing and implementing its State Tax Adjustment Surcharge ("STAS") until March 2002 to coincide with the expiration of its CTC for its Rate RS customers, all subject to the following modifications:
- Duquesne will recover the RNR tax liability in its STAS calculation to be filed by December 31, 2001, and to be effective in March 2002 for all of its customers, except its Rate RA and Rate RH customers, between March 2002 and December 31, 2002;



James J. McNulty, Secretary
December 14, 2001
Page 2

- Duquesne will not seek or assess any carrying charges on the RNR tax liability that is deferred between January 1, 2002, and the effective date of the STAS in March 2002;
- Duquesne will be permitted to recover the portion of its RNR liability for Rate RH and Rate RA customers that does not exceed an existing statutory rate cap. Any RNR liability that is not recovered will be deferred.
- Commencement of the collection of the RNR tax liability that is deferred for Duquesne's Rate RA and Rate RH customers will be deferred until no later than January 1, 2003;
- All deferrals are class specific, thus collection, i.e. deferral and accrued interest, are the responsibility of each respective class;
- Duquesne will be entitled to establish a regulatory asset for the deferral of the RNR collection for the Rate RA and Rate RH customers and be entitled to collect from those customers their respective deferral amounts plus 6% annual interest on the amount deferred;
- In determining whether any rate filing by Duquesne during the period of recovery of deferred costs under this settlement exceeds the rate cap for Rate RH and Rate RA customers, Duquesne's recovery of the deferred amounts will not be considered;
- The calculation of Duquesne's "price to compare" will include the generation charges, the transmission charges and the RNR tax liability on those charges;
- With the Commission's approval, Competitive Electric Generation Suppliers ("EGS") shall receive a one-time waiver of the Commission's regulations at 52 Pa. Code §54.5(g)(1), to allow EGSs to provide one rather than the multiple customer notices related to any contractually permitted pricing changes associated with the 2002 RNR tax adjustment; and

James J. McNulty, Secretary
December 14, 2001
Page 3

- Except as specifically noted herein, this settlement is without prejudice to arguments that participants may present in connection with any rate filing by Duquesne to recover its 2003 RNR tax liability.

This letter has been circulated to all the parties of record at the above docket number. The Office of Trial Staff does not oppose the settlement. All of the other parties are in agreement with the terms of the settlement as set forth herein. It is therefore requested that the Commission (1) approve the settlement without modification, (2) find that the rates resulting from the settlement are just and reasonable, and otherwise lawful, and (3) permit Duquesne to implement the terms of the settlement.

Very truly yours,



Richard S. Herskovitz
Chief Regulatory Counsel

RSH/chm:c001-01

c: Daniel P. Delaney, Esquire
Irwin A. Popowsky, Esquire
Tanya J. McCloskey, Esquire
Carol F. Pennington, Esquire
Charles F. Hoffman, Esquire
Kenneth L. Mickens, Esquire
David M. Kleppinger, Esquire
Susan Bruce, Esquire
James H. Cawley, Esquire
Kathryn G. Sophy, Esquire
Chairman Glenn Thomas
Commissioner Robert Bloom
Commissioner Terence Fitzpatrick
Commissioner Aaron Wilson
Dennis Buckley, Esquire
Robert Wilson, FUS
Karen Moury, Esquire, Law Bureau