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January 9, 2014

**VIA E-FILING**

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

Re: Pennsylvania Public Utility Commission; Office of Consumer Advocate; Office of Small Business Advocate; Jacquelyn and Robert Miller; Gwendolyn L. LeVert; Duquesne Industrial Interveners; Aimee M. Dorsten; Connie Schiavo; NRG Power Midwest LP, NRG Energy Center Pittsburgh LLC, and Reliant Energy Northeast LLC v. Duquesne Light Company; Docket Nos. R-2013-2372129; C-2013-2379084; C-2013-2380474; C-2013-2383835; C-2013-2383980; C-2013-2385292; C-2013-2386037; C-2013-2386284

Dear Secretary Chiavetta:

On behalf of Beaver Falls Municipal Authority (“Authority”), I have enclosed for electronic filing the Proposed Findings of Fact and Proposed Conclusions of Law that were inadvertently omitted from the Main Brief of the Authority which was filed via hand delivery on January 6, 2014. The Proposed Findings of Fact and Proposed Conclusions of Law were included in the electronic version of the Main Brief that was served on all parties on January 6, 2014.

Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,



John F. Povilaitis

JFP/kra  
Enclosure  
cc: Administrative Law Judge Conrad A. Johnson (via email and first class mail)

PROPOSED  
FINDINGS OF FACT  
AND  
CONCLUSIONS OF  
LAW

## **PROPOSED CONCLUSIONS OF LAW**

1. As the entity seeking to change a tariff provision not sought to be changed by Duquesne in its base rate proceeding, the NRG Companies have the burden of proof with respect to all issues pertaining to Rider No. 18.
2. The Commission has no jurisdiction to adjudicate the relief sought in the Formal Complaint with respect to Rider No. 18 since it cannot change or otherwise modify a rate to be paid to a QF under PURPA that has been approved by a state commission and is being paid under a contract or other legally enforceable obligation.
3. The Commission has no jurisdiction to adjudicate the relief sought in the Formal Complaint with respect to Rider No. 18 because the NRG Companies failed to join all indispensable parties.
4. NRG Midwest has failed to demonstrate that it has sufficiently direct and immediate interest in the terms of Rider No. 18 and therefore lacks standing to modify or eliminate Rider No. 18.
5. NRG Midwest's evidence failed to support a prima facie case in support of its recommendations with respect to Rider No. 18.

## **PROPOSED FINDINGS OF FACT**

1. The Authority's Facilities are QFs under PURPA and entitled to the pricing for electricity specified in Rider No. 18 that has been restricted since 1987.
2. Adoption of NRG Midwest's recommendations with respect to Rider No. 18 would have dire financial consequences to the Authority which, among other things, still has outstanding debt and other expenses associated with its Facilities.
3. The price in Rider No. 18 for electricity purchases from the Authority continues to be a reasonable and sensible price given Duquesne's current and historic default service prices.
4. There is no evidence that a market-based price is an appropriate "avoided cost" under PURPA or sufficient to provide a reasonable return to the Authority for its investment in the Facilities and its outstanding and unpaid indebtedness.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Office of Consumer Advocate	:	
Office of Small Business Advocate	:	Docket Nos. R-2013-2372129
Jacquelyn and Robert Miller	:	C-2013-2379084
Gwendolyn L. LeVert	:	C-2013-2380474
Duquesne Industrial Interveners	:	C-2013-2383835
Aimee M. Dorsten	:	C-2013-2383980
Connie Schiavo	:	C-2013-2385292
NRG Power Midwest LP,	:	C-2013-2386037
NRG Energy Center Pittsburgh LLC, and	:	C-2013-2386284
Reliant Energy Northeast LLC	:	
	:	
	:	
v.	:	
	:	
	:	
Duquesne Light Company	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing document in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

**VIA FIRST CLASS AND ELECTRONIC MAIL**

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