



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

ISSUED: March 30, 2007

A-110150 F0035
A-311233 F0002

MICHAEL W GANG ESQUIRE
ANDREW S TUBBS ESQUIRE
POST & SCHELL PC
17 NORTH SECOND STREET
12TH FLOOR
HARRISBURG PA 17101-1601

DOCUMENT FOLDER

Application of Duquesne Light Company for a Certificate of Public Convenience
under Section 1102(a)(3) of the Public Utility Code approving the acquisition of Duquesne
Light Holding, Inc. by Merger.

Application of DQE Communications Network Services, LLC for a Certificate of Public Convenience
under Section 1101(a)(3) of the Public Utility Code approving the acquisition of Duquesne Light
Holding, Inc. by Merger.

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Robert P. Meehan.

An original and nine (9) copies of signed exceptions to the decision, if any, **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION, 2ND FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265;** a copy in the hands of the Office of Special Assistants Third Floor; and a **copy in the hands** of each party of record no later than **April 6, 2007 by 4:30 P.M.** 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions. A certificate of service shall be attached to the filed exceptions.

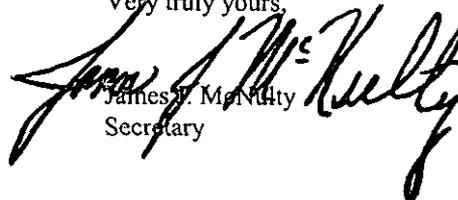
Exceptions shall obey 52 Pa. Code 5.533 and 5.535, particularly the 40-page limit for exceptions. Exceptions should be clearly labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

Reply exceptions will not be accepted for filing and will not be entertained by the Commission.

Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

Parties are also requested to provide the Commission's Office of Special Assistants with a copy of exceptions/reply exceptions on a computer disk, 3 1/2" in size, in Microsoft Word 6.0 format. If Word 6.0 is not available, either Wordperfect 5.1 or ASCII format is acceptable.

Very truly yours,


James J. McNulty
Secretary

Encls.
Certified Mail
Receipt Requested
MH

See attached list for additional parties of record.

A-110150F0035; Application of Duquesne Light Company
A-311233F0002; Application of DQE Communications Network Services, LLC
SERVICE LIST

Michael W. Gang, Esq.
Andrew S. Tubbs, Esq.
Post & Schell, PC
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
FAX: 717-731-1985
mgang@postschell.com
atubbs@postschell.com

For: Applicants

David B. MacGregor, Esq.
Post & Schell, PC
Four Penn Center
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103-2808
Phone: 215-587-1000
FAX: 215-320-4879
dmacgregor@postschell.com

For: Applicants

Gary A. Jack, Esq.
Duquesne Light Company
411 Seventh Avenue, Mail Drop 8-2
Pittsburgh, PA 15219
Phone: 412-393-1541
FAX: 412-393-1418
gjack@duqlight.com

For: Applicants

IND
7/0

Charles Daniel Shields, Senior Prosecutor
Robert V. Eckenrod, Prosecutor
Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: 717-783-6151 (Mr. Shields)
Phone: 717-783-6155 (Mr. Eckenrod)
FAX: 717-772-2677
chshields@state.pa.us
roeckenrod@state.pa.us
For: Office of Trial Staff

Tanya J. McCloskey, Senior Assistant Consumer Advocate
Jennedy E. Santolla, Assistant Consumer Advocate
Darryl Lawrence, Assistant Consumer Advocate
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
Phone: 717-783-5048
FAX: 717-783-7152
TMcCloskey@paoca.org
JSantolla@paoca.org
DLawrence@paoca.org
For: Office of Consumer Advocate

Daniel G. Asmus
Assistant Small Business Advocate
Office of Small Business Advocate
Suite 1102, Commerce Bldg.
300 North Second Street
Harrisburg, PA 17101
Phone: 717-783-2525
FAX: 717-783-2831
dasmus@state.pa.us
For: Office of Small Business Advocate

Todd S. Stewart, Esq.
Hawke, McKeon, Sniscak & Kennard, LLP
P.O. Box 1778
Harrisburg, PA 17105-1778
Phone: 717-236-1300
FAX: 717-236-4841
tsstewart@hmsk-law.com
For: Dominion Retail, Inc.

Pamela C. Polacek, Esq.
Adam L. Benshoff, Esq.
McNees Wallace & Nurick, LLC
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17108-1166
Phone: 717-232-8000
FAX: 717-237-5300
ppolacek@mnw.com
abenshoff@mnw.com
For: Duquesne Industrial Intervenors

Daniel Clearfield, Esq.
Kevin J. Moody, Esq.
Wolf, Block, Schorr and Solis-Cohen, LLP
213 Market Street, 9th Floor
P.O. Box 865
Harrisburg, PA 17108-0865
Phone: 717-237-7160
FAX: 717-237-7161
dclearfield@wolfblock.com
kmoody@wolfblock.com
For: Retail Energy Supply Association

Scott J. Rubin, Esq.
3 Lost Creek Drive
Selinsgrove, PA 17870
Phone: 570-743-2233
FAX: 570-743-8145
scott@publicutilityhome.com
*For: International Brotherhood of
Electrical Workers, Local 29*

Joseph L. Vullo, Esq.
Burke, Vullo, Reilly, Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
Phone: 570-288-6441
FAX: 570-288-4598
jlvullo@bvrrlaw.com
*For: Community Action Association
of Pennsylvania*

Erin Creahan, Esq.
Associate Counsel
Strategic Energy, LLC
Two Gateway Center, 9th Floor
Pittsburgh, PA 15222
Phone: 412-258-2036
FAX: 412-394-6681
ecreahan@strategicenergy.com

Theodore H. Jobes, Esq.
Fox Rothschild, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291
Phone: 215-299-2786
FAX: 215-299-2150
tjobes@foxrothschild.com
*For: Pennsylvania Large Energy
Users Coalition*

Steven S. Goldenberg, Esq.
Fox Rothschild, LLP
Princeton Pike Corporate Center
997 Lenox Drive, Bldg. 3
Lawrenceville, NJ 08648-2311
Phone: 609-896-4586
FAX: 609-896-1469
sgoldenberg@foxrothschild.com
*For: Pennsylvania Large Energy
Users Coalition*

Paul F. Forshay, Esq.
Sutherland, Asbill & Brennan, LLP
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: 202-283-0708
FAX: 202-637-3593
paul.forshay@sablaw.com
*For: Pennsylvania Large Energy
Users Coalition*

John E. McCaffrey, Esq.
Harvey L. Reiter, Esq.
Jaime S. Dibble, Esq.
Stinson, Morrison, Hecker. LLP
1150 18th Street, N.W., Suite 800
Washington, D.C. 20036-3816
Phone: 202-785-9100
FAX: 1-888-811-8863
jmccaffrey@stinsonmoheck.com
For: Citizen Power, Inc.

Gary Jeffries, Esq.
Dominion Retail, Inc.
1201 Pitt Street
Pittsburgh, PA 15222-2029
Phone: 412-473-4129
FAX: 412-473-4170
gary_jeffries@dom.com
For: Dominion Retail, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company	:	
for a Certificate of Public Convenience under	:	
Section 1102(a)(3) of the Public Utility Code	:	A-110150F0035
approving the acquisition of Duquesne Light	:	
Holding, Inc. by Merger	:	
	:	
And	:	
	:	
Application of DQE Communications Network	:	
Services, LLC, for a Certificate of Public	:	
Convenience under Section 1101(a)(3) of the	:	A-311233F0002
Public Utility Code approving the acquisition of	:	
Duquesne Light Holding, Inc. by Merger	:	

**DOCUMENT
FOLDER**

INITIAL DECISION

Before
Robert P. Meehan
Administrative Law Judge

DOCKETED
MAR 30 2007

This Initial Decision: (a) approves the Joint Petition for Settlement (Settlement) submitted in this case by: Duquesne Light Company (“Duquesne”), DQE Communications Network Services LLC (“DQE Communications”),¹ the Office of Trial Staff (“OTS”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the International Brotherhood of Electrical Workers, Local 29 (“IBEW 29”), Community Action Association of Pennsylvania (“CAAP”), Dominion Retail, Inc. (“Dominion”), Duquesne

¹ DQE Communications Network Services LLC (“DQE Communications”) holds a Certificate of Public Convenience to provide telecommunication service as a Competitive Access Provider throughout the Commonwealth of Pennsylvania. DQE Communications and its parents are wholly owned by DLH. *Application of DQE Communications Network Services LLC for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania*, Docket No. A-311233 (Order entered on November 23, 2004).

Industrial Intervenors (“DII”), Retail Energy Supply Association (“RESA”),² Strategic Energy, LLC (“Strategic”) and Pennsylvania Large Energy Users Coalition (“PALEUC”), collectively referred to as “Joint Petitioners”;³ and (b) provides for the issuance of the certificates of public convenience.

HISTORY OF THE PROCEEDING

On September 6, 2006, Duquesne and DQE Communications filed with the Commission a joint application (the “Application”) requesting all necessary approvals authorizing the transfer of control of their parent, Duquesne Light Holdings, Inc. (“DLH”) to the Macquarie Consortium, a group of six investment funds, with the majority of the equity in the transaction provided by funds managed by the Macquarie Group. The Application was docketed at A-110150F0035 and A-311233F0002. Notice of the filing of the Application was published in the *Pennsylvania Bulletin* on September 16, 2006, 26 Pa. B. 5854. Protests to the Application or Petitions to Intervene, if any, were to be filed on or before October 2, 2006.

OTS filed a Notice of Appearance. Timely protests and notices of intervention were filed by OCA and OSBA. In addition, timely Petitions to Intervene/Protests were filed by IBEW 29, CAAP, Dominion, DII, RESA, Strategic, PALEUC and Citizen Power. On September 15, 2006, Duquesne and DQE Communications filed their direct testimony.

The Prehearing Conference was held on November 28, 2006. No objections were raised to any of the Protests/Petitions to Intervene, and all were granted party status. At the Prehearing Conference, various other procedural matters were addressed, including the establishment of a litigation schedule. Following the Prehearing Conference, I issued a Prehearing Order on November 29, 2006, and a Revised Prehearing Order on December 5, 2006.

² RESA joined in the Settlement on its own behalf, and on behalf of two of its members, Direct Energy Services, LLC and Hess Corporation.

³ Citizen Power Inc. (“Citizen Power”) did not join in the Settlement. It authorized the Joint Petitioners to state that Citizen Power does not oppose this Settlement and that it will submit a letter of non-opposition to the Commission. Its letter of non-opposition is attached as Appendix F to this Initial Decision.

Discovery, which had commenced prior to the Prehearing Conference, continued in accordance with the provisions of the Prehearing Order. Several, but not all of the parties to this proceeding served direct, rebuttal, and/or surrebuttal testimony as provided by the Prehearing Orders. The Prehearing Order had scheduled the hearings in this matter to commence on January 30, 2007 in Harrisburg. However, on January 29, 2007, the Joint Petitioners notified me that they had achieved a comprehensive settlement in this case and requested cancellation of the hearings. Upon receipt of that information, the scheduled hearings were cancelled.

On February 9, 2007, the Joint Petitioners filed the Settlement with the Secretary of the Commission. On February 21, 2007, Duquesne re-submitted Appendix A to the Settlement removing the "Confidential" designation of that Appendix. Statements in Support of the Settlement by Duquesne/DQE Communications, OTS, OCA, OSBA, RESA, and Direct Energy Services, LLC are attached to the Joint Petition as Attachments A-F, respectively. A complete copy of the Settlement, including its Appendix A, which is included immediately preceding the index of the Statements, and Attachments A-F, is attached to this Initial Decision as Appendix A. Additionally, Statements in Support of the Settlement were separately submitted by DII, CAAP, PALEUC and Strategic. These Statements are attached to this Initial Decision as Appendices B through E, respectively. The letter of February 9, 2007 from Citizen Power, stating that it does not oppose the Settlement, is attached to this Initial Decision as Appendix F.

On February 12, 2007, the parties filed an All Parties Stipulation for the Admission of Testimony and Exhibits into the Record. In that All Parties Stipulation, the parties identified the testimony and exhibits that they had agreed would be admitted on stipulation. In an Interim Order issued on February 21, 2007, the All Parties Stipulation was approved, the testimony and exhibits identified therein were admitted into the record of this proceeding, and the record was closed.

The Settlement in this case was filed before the Commonwealth Court issued its decision in *Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission*, No. 255 C.D. 2006, 2007 Pa. Cmmw. LEXIS 63, in which that Court reversed the Commission's approval of the Verizon Communications, Inc. and MCI, Inc. merger, and remanded that case to

the Commission. Accordingly, by Interim Order #2, issued February 27, 2007, I reopened the record in this matter and granted the Joint Petitioners permission to submit a Joint Statement in Support of the Settlement so that they could address any question pertaining to the impact the Commonwealth Court's recent decision has on this proceeding. As stated in that Order, the Joint Statement in Support was to be filed on or before March 9, 2007.

The Joint Petitioners, other than the OSBA, filed a Joint Statement in Support for the Settlement on March 7, 2007. A copy of the Joint Statement is attached as Appendix G. The OSBA filed a separate Supplemental Statement in Support of the Settlement on March 8, 2007. A copy of the OSBA's Supplemental Statement is attached as Appendix H. The record was closed by Interim Order #3 issued March 12, 2007.

TERMS AND CONDITIONS OF THE SETTLEMENT

The essential terms of the Settlement are found in Part II, Paragraph 10, pages 4-18. The conditions of the Settlement are specified in Part III, Paragraphs 11-14, pages 18-19. Additionally, in Part IV, Paragraphs 15-17, pages 19-27, the Joint Petitioners identify public benefits expected to result from approval of the Settlement. Parts II through IV of the Settlement, Paragraphs 10-17, are set forth fully below.

II. TERMS AND CONDITIONS

10. The Joint Petitioners agree to settle and resolve issues in the above-captioned proceeding on the following terms and conditions:

A. Support For Settlement

1. The Joint Petitioners agree to support approval of the Merger and Duquesne's and DQE Communications' Application for Certificates of Public Convenience will be approved, subject to the conditions below.

2. The Joint Petitioners agree that they will support or not oppose the Securities Certificate(s) to be filed forthwith by Duquesne with the Commission requesting approval of a new 5-year Revolving Credit Agreement as described in the Application, in order to close on the transaction without delay.⁴

B. Rate Issues

1. Duquesne will not file a proposed general increase in distribution rates under Section 1308(d) of the Public Utility Code that would become effective after full suspension prior to January 1, 2010, and Duquesne agrees that there shall be no general increase in distribution rates prior to January 1, 2010, unless there are substantial changes in regulation or federal tax rates or policy. This condition shall not affect Duquesne's ability to adjust its retail transmission rates or its Provider of Last Resort ("POLR") rates on a timely basis. This condition shall not prohibit application of the State Tax Adjustment clause to recover increases in state taxes prior to January 1, 2010. This provision also shall not prohibit Duquesne from seeking to recover universal service costs through a surcharge mechanism on or after January 1, 2010, or any party to this settlement from opposing such a proposal.

2. Joint Petitioners agree that all aspects of the acquisition premium and transaction costs, including third party consultants, financial advisory services and due diligence costs as set forth in the response to OCA Set III-21, attached hereto as Appendix "A," including all related tax effects, will be excluded from future distribution and transmission rates.

3. Duquesne will not claim any increase in the cost of capital as a direct result of the transaction for a five (5) year period after closing.

⁴ The Settlement notes that the Securities Certificate was filed with the Commission on February 2, 2007 and is docketed at S-00061180.

a. Duquesne shall not request a capital structure for ratemaking purposes which is outside of a reasonable range of that used by comparable companies. In any future base rate proceeding, Duquesne must demonstrate that its claimed common equity ratio is reasonable and in the best interests of its customers; and

b. Duquesne shall not claim, for 5 years following the closing, any increase in its cost of capital due to any downgrading of Duquesne debt as a direct result of the Merger.

C. Corporate Headquarters

1. DQE Holdings and the Macquarie Consortium, and its investors, will continue to maintain Duquesne's corporate headquarters in Pittsburgh, Pennsylvania. All of the corporate functions will be performed and maintained at such headquarters so that Duquesne and its management team will continue to be locally based. DQE Holdings agrees not to move Duquesne's headquarters outside Duquesne's service territory without advance approval of the Commission.

D. Access To Books And Records

1. Upon written request, Duquesne and its subsidiaries will provide the Commission, the OTS, the OCA and the OSBA reasonable access to the books and records, officials and staff of DLH and its subsidiaries in Pittsburgh, Pennsylvania. However, nothing set forth herein shall constitute or be interpreted as a waiver by DLH or its subsidiaries of its right to raise traditional discovery objections to any such requests, including, but not limited to, objections on the basis of relevance and privilege. In addition, before responding to any such requests, DLH and its subsidiaries shall be permitted to require the imposition of

protections they deem necessary to prohibit disclosure of proprietary or confidential information.

**E. Corporate Structure Protections, Financial Conditions
And Governance**

1. From and after the effective date of this Settlement, Duquesne shall not: (1) guarantee the debt or credit instruments of DLH or any affiliate not regulated by the Commission, except as approved by the Commission upon a determination that such guarantee provides net benefits to customers; (2) grant a mortgage or other lien on any property used and useful by Duquesne in providing retail utility service to the public subject to the Commission's jurisdiction, except for the financing needs of Duquesne; or (3) make any loan or otherwise extend credit to DLH or any affiliate not regulated by the Commission for a term of one year or more, except as approved by the Commission upon a determination that such loan or credit extension provides net benefits to customers.

2. DQE Holdings will not permit a change in ownership among the members of DQE Holdings without prior Commission approval if such change would result in a change in control under the then-applicable Commission standards.

3. Duquesne will seek Commission approval of all new or amended agreements with affiliates consistent with Chapter 21 of the Public Utility Code.

4. Duquesne shall provide the OTS, OCA and OSBA with a copy of its annual reports filed with the Securities and Exchange Commission.

5. Commencing March 31, 2008 and ending March 31, 2010, Duquesne will provide an annual report to the Commission as to the status of all commitments made in this Settlement.

6. Duquesne agrees to continue to have outstanding separately issued debt held by investors not affiliated with Duquesne or its affiliates, unless the Commission authorizes to the contrary.

7. DLH and its subsidiaries, including Duquesne, will provide, upon request, to OTS, OCA and OSBA access in connection with rate proceedings and other proceedings before the Commission, where relevant, to presentations given by DLH and its subsidiaries to common stock, bond, or rating analysts. Such material will be accorded confidential treatment.

8. Duquesne's long term debt ratio as a percent of total capitalization shall not exceed 60% absent approval from the Commission. Any request for approval will be considered on an expedited basis, if so requested.

9. Duquesne shall notify the Commission of its intention to declare a special cash dividend to DLH, at least 30 days before declaring the dividend.

10. The CEO of DLH will be a member of the board of DQE Holdings, and will also chair a management committee which will contain representatives of both the senior management team and the Macquarie Consortium.

F. Reliability And Customer Service

1. Duquesne commits to its current planned funding levels of its infrastructure improvement plan for years 2006 and 2007.

2. Duquesne agrees to the following Quality of Service Plan ("Service Plan") during the period from January 1, 2007 through December 31, 2009. The Service Plan establishes the following metrics and reporting requirements to allow for the monitoring of the quality of service provided by

Duquesne and to identify any significant changes to Duquesne’s reliability and service levels:

Quality of Service Plan	
Performance Area Index	Metrics
Reliability	
SAIFI (12 Month)	1.17
CAIDI (12 Month)	108
Customer Service	
The percent calls answered within 30 seconds	76%
The average busy out rate	0.5%
The average call abandonment rate	4%
Percent of residential bills not rendered once every billing cycle	0.01%

Duquesne will provide a report each year to the Commission, OCA, OTS and OSBA identifying its performance and the metrics in the Service Plan set forth in the above table. Duquesne will also include in its report its performance in the areas of: Number of Residential Customer disputes not issued a report within 30 days; Residential Termination Rate (terminations per 1000 residential customers); Justified Residential Payment Arrangement Request Rate; and Justified Residential Consumer Complaint Rate. However, such reported metrics are not considered as part of the Service Plan for purposes of this provision.

Duquesne agrees that, in any year during the effective period of the Service Plan, if its reliability or service levels are not equal to or better than the reporting metrics set forth in the Service Plan, Duquesne will provide the Commission, OCA, OTS and OSBA with a report that will identify the reasons for the variance and identify any management actions that Duquesne intends to undertake in response to any variation. Duquesne will then convene a collaborative with OCA, OTS and the OSBA to discuss such report. The

Commission may, upon motion of any Party or upon its own motion, open a formal proceeding concerning reliability or service.

If following such a collaborative, OTS, OCA or OSBA request a proceeding before the Commission, Duquesne will not oppose the initiation of such a proceeding; however Duquesne reserves the right to oppose the proceeding if it is being initiated as a result of Duquesne exceeding one but not both of the reliability metrics set forth above.

3. Nothing contained herein is intended to limit the authority of the Commission to consider quality of service pursuant to Sections 523 and 526 of the Public Utility Code in setting Duquesne's rates, or the Bureaus of the Commission from performing their duties and making recommendations, including recommendations regarding fines for failure of Duquesne to provide safe and reliable service.

4. Duquesne will maintain operating locations and field offices in its territory, and staffing levels, as appropriate, to provide safe and reliable service, consistent with good utility practices. In addition, Duquesne acknowledges that the change in ownership resulting from this transaction is not an extraordinary circumstance under the existing Collective Bargaining Agreement.

G. Universal Service

1. Duquesne will continue to fund its Customer Assistance Program ("CAP") consistent with its needs analysis.

2. Duquesne will continue to coordinate with administering agencies and community based organizations ("CBOs") to administer low-income assistance programs. Duquesne will convene a collaborative ("Universal Service

Collaborative”) of local representatives of low income groups, CBOs and the OCA to consider universal service programs so as to enhance Duquesne’s programs within current funding levels, including discussing increasing the involvement of CAAP and the PA Weatherization Task Force in referrals to and from Duquesne for its Low Income Usage Reduction Program (“LIURP” or “Smart Comfort”). The collaborative will meet no less than once per year and will include a representative of CAAP and a representative from the Pennsylvania weatherization network providers.

3. Duquesne will continue to fund LIURP consistent with the settlement reached in Docket No. R-00061346 by agreeing to fund the \$1.531 million plus any carryover from 2006 on LIURP in future program years during 2007 through 2009. Duquesne will increase the number of customers served under its Smart Comfort program from 2,250 customers per year to 3,000 customers per year for the period 2007 – 2009, except for 2008 where Duquesne will commit to serving 4,000 customers and, on approval from the Commission’s Bureau of Consumer Services (“BCS”), target the additional 750 visits to customers with incomes between 150% and 200% of the federal poverty level.

4. Duquesne will agree not to transfer LIURP funds collected during the period 2007 through 2009 to other universal service programs.

5. Duquesne agrees that it will make all reasonable efforts to expend LIURP funding available each calendar year. Subject to any necessary approval by the BCS, Duquesne will agree to raise the income eligibility needs to 200%, and/or expanding outreach efforts, and/or increasing the numbers of customers served. Duquesne will advise the universal service collaborative of the status of LIURP expenditures on a quarterly basis during the period 2007 through 2009.

6. Subject to approval of its partners, Duquesne will agree to involve CAAP and the Pennsylvania Weatherization Task Force in its partnership regarding the provision of weatherization services.

7. Duquesne will continue its Stay Warm Program as needed for the winter of 2006/2007 and consistent with its needs analysis, in subsequent winter periods during the stay-out period set forth in Paragraph 10.B.1. of this Agreement.

8. Duquesne agrees to provide copies of its future Universal Service Plans to CAAP and the Pennsylvania Weatherization Task Force upon filing and will not object to CAAP's or the Pennsylvania Weatherization Task Force's submission of comments regarding such universal service plans, including the Universal Service Plan to be filed in early 2007.

H. Community Commitment

1. For a period of five (5) years, Duquesne will provide corporate contributions and community support in southwestern Pennsylvania at least at levels substantially comparable to the levels provided by the Company in 2006. (For 2006, that is approximately \$2.9 million). In addition, Duquesne will continue to match customer contributions to the Dollar Energy Fund with shareholder dollars up to \$375,000.

2. Duquesne will establish a competitively neutral Economic Development Program to attract and support expanding Pennsylvania industrial employers by offering a flat 50 MW block (7 days by 24 hours) of energy consumed at the new or expanded facility at a discount up to \$3 per MWh below market for three years to commercial/industrial customers on Schedules HVPS and L that intend to add at least 10 MW of new or expanding load and create two new full time employment positions per MW of new load. Duquesne will also

consider applications for funding for new or expanded load under Rate GL or, for customers on schedules HVPS and L that do not meet the above two (2) criteria, if the applicant demonstrates that the new or expanded load, while less than 10 MW, has other significant benefits, such as increasing off-peak power that could be utilized to a greater extent than on peak power, or providing attractive or improved load factor or power factor, or offers significant new employment. The program will terminate on March 1, 2013 or earlier if the state adopts a state-wide economic development plan and will be funded solely by shareholder funds for the term of the program. To accomplish competitive neutrality, Duquesne will not condition the discount upon the customer's obtaining energy under the POLR service or purchase of energy from an affiliate of Duquesne and Duquesne will provide written notice to each grant applicant that the discount is not conditioned on the purchase of energy from Duquesne or its affiliates, and that eligible customers may obtain 100% of their generation supply from Electric Generation Suppliers ("EGSs") not affiliated with Duquesne.

I. Corporate Cost Allocations

1. Duquesne's corporate cost allocations will include a rent charge for the percentage of space occupied by employees who provide services to an affiliate, and a supplies charge for supplies the employee may use in providing services to affiliates.

2. Duquesne's corporate cost allocations will provide that all costs incurred by DLH, including any costs allocated from Duquesne to DLH, will be allocated, to the extent appropriate, to other Duquesne affiliates.

3. Duquesne's corporate cost allocations will include appropriate charges to all affiliates for costs incurred on their behalf by DLH for letters of credit and sureties and will allocate appropriate charges associated with the DLH revolving credit agreement.

4. Duquesne will provide a report, as part of its upcoming POLR IV filing, setting forth the specifics of these revisions to its corporate cost allocations.

J. Competitive Markets

1. Duquesne agrees to continue its support of the development of competitive retail electric market in its service territory consistent with all applicable Pennsylvania laws and regulations.

2. In addition to existing structural separation and cost allocation rules and procedures, DLH will provide the following:

a. DLH at its expense, will arrange with an independent auditor/consultant with experience in cost allocations, to conduct an assessment to identify and quantify the cost of the services and business functions provided to Duquesne Light Energy (“DLE”) by its affiliates and to provide for the remittance of compensation for services rendered to DLE (or any other affiliated EGS) by any other Duquesne companies. Specifically, the independent auditor/consultant assessment will include :

(1) The identification and quantification of the cost of the services and business functions provided to DLE by Duquesne (“Duquesne Costs”) or other Duquesne companies, other than Power Procurement Services, and

(2) The identification and quantification of the cost of Power Procurement Services. For the purposes of this paragraph, Power Procurement Services shall mean:

(i) The cost of any credit support provided directly to DLE, or indirectly via credit support provided to Duquesne Power (“DP”) (or any other affiliate), and used for joint power procurement;

(ii) The reduced cost (if any) of purchased power (as compared to similar power procurement arrangements that might be made with a non-affiliate) realized by DLE as a result of its power procurement arrangement with DP (or any other affiliate);

(iii) The cost of power procurement support functions (such as, but not limited to, wholesale power procurement, hedging, scheduling, balancing, forecasting and RTO/ISO settlement activities) provided directly to DLE or that DLE indirectly receives due to its power procurement arrangement with DP (or any other affiliate); and

(iv) The cost of administrative support provided by other Duquesne companies directly to DLE or that DLE indirectly benefits from due to its power procurement arrangement with DP (or any other affiliate).

With respect to Power Procurement Services the independent auditor/consultant also will quantify what the cost of such Power Procurement Services would be if they were acquired by DLE independently (hereinafter “Independent Acquisition Cost Analysis”); provided, however, that this Independent Acquisition Cost Analysis will not be applied to: (1) credit support provided directly to DLE by DLH or Duquesne, if, for the calendar year 2006, a portion of the cost of such

credit support was allocated to DLE as an intercompany transfer; and (2) any Power Procurement Service costs where the service provided by the non-regulated affiliate is obtained from independent third parties. Notwithstanding the above, in no event will the Independent Acquisition Cost Analysis include any costs incurred by Duquesne.

b. The independent auditor/consultant described in paragraph 10.J.2.a. above, shall be selected from a list of three (3) qualified consultants identified by Duquesne and provided to RESA. From this list RESA shall have the right to select the independent auditor/consultant, unless RESA reasonably determines that none of the consultants are in fact independent or qualified to conduct the required analysis, in which case the parties will prepare a list of six (6) qualified consultants, three (3) of whom shall be identified by Duquesne (and none of whom were on Duquesne's previous list) and three (3) of whom shall be identified by RESA. If the parties can agree on a consultant from this list, that auditor/consultant will perform the study. If the parties cannot agree, then each party will rank the six auditor/consultants in descending order of preference, and the auditor/consultant with the lowest overall score will be selected.

c. The independent auditor/consultant selected above will perform an audit for calendar year 2007. The results of the non-confidential portion of the third party report will be made available to RESA and Strategic. Confidential portions, including items such as contract provisions, pricing and salary information, shall not be shared with any suppliers except consistent with the Stipulated Protective Agreement executed in this proceeding including Duquesne's ability to redact information relative to pricing and load projections (subject to the supplier's right to obtain an order from the Commission requiring production because such data is required to be provided under the terms of

that Stipulated Protective Agreement). In addition, the independent auditor/consultant, RESA and Strategic will not be provided with individual electric retail customer pricing and load information. The independent auditor/consultant will conduct an internal audit to evaluate compliance with the accepted recommendations from the independent auditor/consultant and provide interested RESA members with the results of the audit.

d. DLE will remit payment to appropriate other Duquesne companies for the Duquesne Costs or other Duquesne companies' costs and Power Procurement Services costs as defined above (and as determined in the independent third party report), of all services and business support functions provided by affiliate companies identified in the independent third party assessment described above and agreed to by DLH. DLH reserves the right to reject assessment recommendations made by the independent auditor/consultant. However, except for the limitation in paragraph "e", below, nothing in this Agreement shall limit the right of any of the parties from pursuing any available legal recourse, including the filing of a complaint or other request for relief with the Commission regarding any affiliated interest, inter-company cross subsidy or competitive issue involving Duquesne or any affiliate of Duquesne. No party shall be deemed to have adopted or accepted the cost allocation principles set forth herein as fair, reasonable or sufficient to avoid uncompetitive cross subsidies for Duquesne or for any other public utility.

e. Collectively RESA and independently its members Direct Energy Services, LLC, Hess Corporation and Strategic agree that this settlement resolves all issues relating to inter company cost allocations in this proceeding and in Duquesne's filing to establish POLR IV rates effective January 1, 2008.

III. CONDITIONS OF SETTLEMENT

11. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with litigation and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an order modifying the Settlement. This Settlement is proposed by the Joint Petitioners to settle all issues among the Joint Petitioners in the instant proceeding. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner to this Settlement may adopt in the event of any subsequent litigation of this proceeding or any other proceeding, unless that proceeding involves Duquesne or DQE Communications to the extent matters resolved by this Settlement are an issue in that proceeding. If the Commission does not approve the Settlement and the proceedings continue to further hearings, the Joint Petitioners reserve their respective rights to conduct full cross-examination and briefing.

12. The consummation and closing of the Merger shall constitute conditions precedent to the Settlement and all obligations of the Joint Petitioners hereunder, and Duquesne and the other Joint Petitioners shall not be bound by the terms hereof if Duquesne advises the Commission and the parties that the Merger will not close and requests that the Commission cancel the Certificates of Public Convenience to be issued hereunder.

13. The Joint Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in any other proceeding, including any other proceeding involving a merger or acquisition involving another Pennsylvania public utility, with the exception that the Settlement, if adopted, will bind the

Joint Petitioners in any future proceeding involving Duquesne or DQE Communications to the extent matters resolved by this Settlement are an issue in such proceeding.

14. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their rights to file exceptions.

DISCUSSION

It is the policy of the Commission to encourage parties to contested on-the-record proceedings to settle the dispute. *See*, 52 Pa. Code §5.231(a). Settlements eliminate the time, effort and expense of litigating a matter to its ultimate conclusion, which may include review of the Commission's decision by the appellate courts of Pennsylvania. Such savings not only benefit the individual parties, but also the Commission and, ultimately, all ratepayers of the respondent utility.

The Joint Petitioners note that the Merger, as amended by the Settlement, meets the affirmative benefits test as set forth in *City of York v. Pa. P.U.C.*, 295 A.2d 825 (Pa. 1972) and also satisfies the ten specific public interest findings that the Commission considered in its Order in *Application of Penn Estates Utilities, Inc.*, Docket No. A-210072F0003, et al., Order entered October 2, 2006.

In *City of York, supra.*, the Pennsylvania Supreme Court, citing provisions of the Public Utility Law now codified in Code, stated *Id.*, at 828:

Section 203 of the Public Utility Law requires that those seeking approval of a utility merger demonstrate more than the mere absence of any adverse effect upon the public. Section 2003 requires that the proponents of a merger demonstrate that the merger will affirmatively promote the "service, accommodation, convenience, or safety of the public" in some substantial way.

In *Penn Estates Utilities, supra.*, the Initial Decision of the Administrative Law Judge had become final, by operation of law. Thereafter, by Order entered March 31, 2006, the Commission determined that the proceeding should be reconsidered. The Commission expressed concern regarding the public interest findings relating to this transaction due to the status of the acquiring party as an equity investor. Because of that concern, the Commission reopened the record for the receipt of additional information and directed the Office of Trial Staff (OTS) to intervene. The Commission directed the Parties to address ten specific issues (October 2, 2006 Opinion and Order, at 3):

- (1) The capital to be allocated to ongoing operating and maintenance expenses;
- (2) Corporate governance/Sarbanes Oxley compliance;
- (3) The expected term of ownership;
- (4) The buyer's experience as an owner and operator of water and wastewater utilities;
- (5) The community presence of the buyer;
- (6) The complex nature and objectives of the various affiliated relationships involved;
- (7) The fees paid to and service performed by affiliates;
- (8) The use of leverage to eliminate or maximize income tax liabilities;
- (9) The transparency on corporate structure issues; and
- (10) Entity creditworthiness.

In Part IV of the Settlement, Paragraphs 15-17, pages 19-27, the Joint Petitioners set forth a summary of the public benefits expected to result from approval of the Settlement. Paragraph 15 provides a listing of eight specific, substantial public benefits the Joint Petitioners expect to result from the Commission's approval of the Settlement. Paragraph 16 restates the public interest considerations enumerated in *Penn Estates Utilities*, as applicable to this case and specifies where in the Settlement, or in the record of this proceeding, these considerations are affirmatively addressed. Lastly, Paragraph 17 identifies the conditions to which Duquesne has agreed to address the concerns of competitive marketers and thus, demonstrates how the Settlement satisfies

the provisions of Section 2811(e) of the Code, 66 Pa. C.S. §2811(e), pertaining to approval of proposed mergers, consolidations, acquisitions or dispositions. These paragraphs read as follows:

IV. PUBLIC INTEREST REASONS IN SUPPORT OF SETTLEMENT

15. The Settlement, if approved by the Commission, will provide substantial public benefits. These benefits⁵ include the following:

- Duquesne has agreed to a provision that will provide customers with reasonable assurance of distribution rate stability to at least January 1, 2010.
- All aspects of the acquisition premium and transaction costs will be excluded from future distribution and transmission rates.
- Duquesne commits to provide annual reports to the Commission over the next three years regarding the status of all commitments under the Settlement.
- Duquesne agrees to adopt a Quality of Service Plan that (i) establishes metrics and reporting requirements to enable the Commission and parties to monitor Duquesne's quality of service following the Merger and (ii) provides a process to address variances from the Quality of Service Plan.
- The Merger will provide Duquesne with an opportunity to obtain more efficient access to capital.

⁵ The explanations provided include summaries of Settlement provisions and do not modify in any manner the specific provisions of the Settlement.

- The Merger will establish a competitively neutral Economic Development Plan to attract new and support expanding Pennsylvania industrial employers.
- Duquesne commits to continue its substantial community commitments at least at levels substantially comparable to current levels.
- Duquesne commits to retain its headquarters and all of its corporate functions in Pittsburgh and commits not to move its headquarters outside the service territory without prior Commission approval.
- The Settlement avoids the additional expenditure of time and funds that would be required to litigate this matter before the Commission.

16. The Joint Petitioners agree that the Merger, as amended by the Settlement, meets the affirmative benefits test as set forth in *City of York v. Pa. P.U.C.*, 449 Pa. 136, 295 A.2d 825 (1972) and also satisfies the ten specific public interest findings that the Commission considered in its Order in *Application of Penn Estates Utilities, Inc., Docket No. A-210072F0003, et al., Order entered October 2, 2006*, as summarized next, and as set forth more specifically in the Settlement and record.⁶

A. Capital Will Continue To Be Expended For Ongoing Operations

- Duquesne commits to its current planned funding levels of its infrastructure improvement plan. (Settlement Paragraph 10.F.1.)

⁶ To the extent the summary is supported by testimony and exhibits of Applicants, Joint Petitioners other than Applicants do not necessarily join in such summary.

- Duquesne's agreement to adopt a Quality of Service plan demonstrates its commitment to continue to provide high quality service. (Settlement Paragraph 10.F.2)

- Duquesne's current collective bargaining agreement will be honored, which provides that: "No regular full-time employee hired on or before June 1, 2005 shall be laid off except under extraordinary circumstances" Duquesne further acknowledges under the Settlement that the Merger transaction is not an "extraordinary circumstance." (DLC St. No. 1, p. 16; Settlement Paragraph 10.F.4.)

- Duquesne commits to continue and expand its universal service programs. (Settlement Paragraph 10.G.1. and 10.G.3.)

B. Corporate Governance Will Not Be Impaired

- DQE Holdings and the current CEO of DLH have executed an employment agreement providing that the CEO will continue to lead DLH. Further, the CEO of DLH will be a member of the board of DQE Holdings. (Settlement Paragraph 10.E.10.)

- The CEO will chair a management committee which will contain representatives of the senior management team and the Macquarie Consortium. (Settlement Paragraph 10.E.10.)

- Duquesne will provide annual reports (10-K) filed with the Securities and Exchange Commission to OTS, OCA and OSBA. (Settlement Paragraph 10.E.4.)

C. The Macquarie Consortium Anticipates A Long-Term Ownership Of DLH

- The focus of the infrastructure investment funds that make up the Macquarie Consortium is the long-term ownership, management and development of important infrastructure assets. (DLC St. No. 2, p. 3)

- Public sector and corporate pension funds are large investors in the funds that make up the Macquarie Consortium. Such investors seek investments that produce long-term cash flows to offset their long-term liabilities, and thus do not require a sale or defined exit strategy to achieve their investment goals. (DLC St. No. 2, pp. 9-10; DLC St. No. 2R, p. 2)

- The Macquarie Consortium has a global track record demonstrating its commitment to the long term investment in Duquesne. (DLC St. No. 2, p. 10)

D. The Macquarie Group Has Substantial Experience In Owning Utilities

- The Macquarie Group manages funds that comprise approximately 64.3% of the equity in the Macquarie Consortium. In the United States, Macquarie Group's investments in energy and utilities include Aquarion Company, a New England water utility (pending acquisition, subject to regulatory approval), The Gas Company, a Hawaiian full service gas company, and Thermal Chicago, district energy businesses operating in Chicago and Las Vegas. (DLC St. No. 2, p. 5)

- Worldwide, Macquarie Group investments serve over 3.4 million gas distribution households, 4 million water households, and 550,000 electric distribution households. Macquarie Group also invests in electric transmission facilities that serve over 4 million people. (DLC St. No. 2, p. 4)

- Macquarie Group also has substantial investments in other “public service” sectors such as airports, toll roads and rail systems. (DLC St. No. 2, p. 4)

- Macquarie Group’s philosophy is to maintain existing management to continue existing operational excellence. This philosophy will be followed with respect to DQE Holdings. (DLC St. No. 2, p. 3)

E. Duquesne’s Existing Presence In The Pittsburgh Community Will Be Retained

- Duquesne’s corporate headquarters will remain in Pittsburgh, and will not be moved outside of Duquesne’s service territory without advance approval of the Commission. (Settlement Paragraph 10.C.1.)

- Duquesne and DQE Holdings commit to maintain operating locations and field offices in its territory, and staffing levels, as appropriate, to provide safe and reliable service. (Settlement Paragraph 10.C.1.)

- Duquesne will continue to coordinate with administering agencies and CBOs to administer its low income programs and will convene a collaborative of interested parties to consider Duquesne’s universal service programs. (Settlement Paragraph 10.G.2.)

- Duquesne commits to maintain corporate contributions and community support at least at levels comparable to the \$2.9 million provided in 2006. (Settlement Paragraph 10.H.1.)

- Duquesne commits to match customer contributions to its hardship fund with shareholders dollars up to \$375,000.

- Duquesne will establish a new Economic Development Program through March 1, 2013, to attract and expand Pennsylvania industrial employers by offering a flat 50 MW block (7x24) of energy consumed at the new or expanded facility at a discount up to \$3/MWh below market. (Settlement Paragraph 10.H.2.)

F. There Will Not Be Complex Affiliate Relationships Involved

- The Macquarie Consortium consists of six investment funds, all with similar strategies of investing in long term infrastructure. As investment funds, the Macquarie Consortium will not be providing services other than financing for DLH and Duquesne. (DLC St. No. 2, pp. 9-10; DLC St. No. 2R, pp. 5-7)

- Funds managed by the Macquarie Group will hold 64.3% of the equity in DQE Holdings, thereby owning the majority of the equity in the investment group. (DLC St. No. 2, p. 5)

G. Fees Paid To And Services Performed By Affiliates

- Services provided by other utilities in which the Macquarie Consortium has an interest will be provided only after the filing and approval of an affiliated interest agreement. (Settlement Paragraph 10.E.3.) Such services are expected to be limited, and in the nature of sharing of best practices. (DLC St. No. 2R, p. 6)

- There are no current plans to add new service corporations or similar affiliates to provide day to day services to Duquesne; however, Duquesne will have access to other utilities or entities managed by the Macquarie Consortium. (DLC St. No. 2R, p. 6)

- Duquesne will revise its corporate cost allocations to include a rent charge for space occupied by affiliates, and a supplies charge for supplies used by affiliate employees. (Settlement Paragraph 10.I.1.)
- Costs incurred by DLH will be allocated, as appropriate, to other Duquesne affiliates. (Settlement Paragraph 10.I.2.)
- Duquesne's cost allocations will include appropriate charges for letters of credit, sureties and the DLH revolving credit agreement. (Settlement Paragraph 10.I.3.)
- Duquesne will provide a report detailing its recent revisions to corporate cost allocations in the POLR IV filing. (Settlement Paragraph 10.I.4.)

H. The Settlement Commits To Limits On Duquesne's Use Of Leverage And Other Capital Structure Protections

- The Settlement provides that Duquesne's long-term debt ratio will not exceed 60% of total capitalization without Commission approval. (Settlement Paragraph 10.E.8.)
- Duquesne agrees to continue to have outstanding separately issued debt held by investors not affiliated with Duquesne or its affiliates, unless the Commission authorizes to the contrary. (Settlement Paragraph 10.E.6.)
- Duquesne commits to notify the Commission in advance if it intends to declare a special cash dividend to DLH. (Settlement Paragraph 10.E.9.)
- Duquesne commits in any future base rate proceeding to demonstrate that its claimed common equity ratio is reasonable and in the best interest of consumers.

I. The Settlement Ensures Transparency On Corporate Structure Issues

- Under the Settlement DLH and its subsidiaries agree to provide the Commission and various parties reasonable access to the books and records, officials and staff of DLH and its subsidiaries. (Settlement Paragraph 10.D.1.)
- Duquesne agrees not to guarantee debt of DLH or affiliates, grant liens upon its property, or to make loans or extend credit to DLH or any affiliate, without prior Commission approval. (Settlement Paragraph 10.E.1.)
- DLH and its subsidiaries will provide upon request to OTS, OCA and OSBA access, where relevant, to presentations given to the financial community. (Settlement Paragraph 10.E.7.)

J. The Macquarie Consortium Is Creditworthy

- The Macquarie Group, which consists of Macquarie Bank Limited, its affiliates and investment vehicles managed by its affiliates, manages funds that own approximately 64.3% of the equity in the transaction. (DLC St. No. 2, p. 1)
- The Macquarie Group currently manages over \$27 billion in equity invested in infrastructure and similar assets globally. (DLC St. No. 2, p. 4)
- The other investors not affiliated with the Macquarie Group each individually manage several billion dollars of investments. (DLC St. No. 2, p. 8)
- Over \$1 billion will be invested by the Macquarie Consortium in financing the purchase. (DLC St. No. 2, p. 6)
- As managers of large pools of investment funds, consisting largely of pension funds, the members of the Macquarie Consortium have substantial

access to additional equity capital under all market conditions. (DLC St. No. 2, pp. 8-9)

The Merger Does Not Harm And Will Advance Retail Competition

17. In addition to the foregoing reasons in support, the Settlement and Merger satisfy the requirements of Section 2811(e) of the Public Utility Code, which directs the Commission to consider whether the proposed Merger “is likely to result in anticompetitive or discriminatory conduct . . . which will prevent retail electricity customers in this Commonwealth from obtaining the benefits of a properly functioning and workable retail electricity market” Under the Settlement, Duquesne has agreed to a series of conditions responsive to concerns of competitive marketers. These include:

- Corporate cost allocation provisions described previously. (Settlement Paragraph 10.I.1-4.)

- Duquesne agrees to continue its support of the development of competitive retail markets. (Settlement Paragraph 10.J.1.)

- DLH agrees to arrange for an independent consultant to conduct an assessment to identify and quantify any costs for services and functions provided to non-regulated affiliates. (Settlement Paragraph 10.J.2.)

- The Economic Development Program, described previously, is available to customers without regard to the identity of their energy provider. (Settlement Paragraph 10.H.2.)

In their Statement in Support for the Settlement (Attachment A to the Settlement), Duquesne and DQE Communications summarize the reasons they believe the Settlement is in the public interest at pages 2 and 3, as follows:

This Merger is a vital, proactive step that will result in significant benefits for Duquesne, its customers and the communities it serves. Specifically, approval of the transaction between DLH and the Macquarie Consortium will: (1) maintain Duquesne, its management and its dedicated employees in Pittsburgh; (2) increase Duquesne's access to a capital on more reasonable terms; (3) provide Duquesne's service area with an economic development program aimed at meeting a critical regional need to attract new business and encourage the expansion of existing businesses; and (4) provide additional affirmative benefits stemming from the unopposed settlement.

They then expand upon this summary in the remainder of their Statement.

The OTS, in its Statement in Support of the Settlement (Attachment B to the Settlement, at 4-5, with the footnotes omitted), offers the following, as the reasons it believes the Settlement is in the public interest:

OTS agrees that the foregoing terms and conditions of the Settlement render its approval to be in the public interest for a number of reasons, including the fact that the eight conditions identified in the distributed OTS Direct and Surrebuttal Testimonies for any Commission granting of the merger applications are, with certain essentially minor negotiated modifications, embodied in the instant Settlement, as follows:

- a. Conditions A & E of Conditions A-H (the eight conditions) recommended in the OTS Direct Testimony that relate to OTS concerns that Duquesne not be entitled to claim or receive a higher cost of capital for ratemaking purposes as a result of a credit rating downgrade caused by the merger are addressed in the Settlement at II. Terms and Conditions, B. Rate Issues, Paragraph 3. b.
- b. Condition B of Conditions A-H (the eight conditions) recommended in the OTS Direct Testimony that relate to OTS concerns that Duquesne not guarantee the debt or credit instruments of DLH or any affiliate not regulated by the Commission; mortgage utility assets on behalf of DLJ or such affiliates; or loan them money or otherwise extend credit are addressed in the Settlement at II. Terms and Conditions, E. Corporate Structure Protections, Financial Conditions and Governance, Paragraph 1.

c. Conditions C, D, F, G & H of Conditions A-H (the eight conditions) recommended in the OTS Direct Testimony that relate to other “ring fencing” issues of concern to OTS such as maintaining separate debt, prior notification to the Commission of any intention to declare any special cash dividend and allowing adequate access to corporate records are addressed at length in the Settlement at II. Terms and Conditions, E. Corporate Structure Protections, Financial Conditions and Governance, Paragraphs 2-9.

In its Statement in Support of the Settlement, the OCA believes that substantial rate issues identified by its expert have been adequately addressed in the Settlement and are in the public interest. Additionally, although it did not offer any testimony pertaining to the Economic Development Program, the OCA expects this to provide significant benefits to Duquesne’s service territory. The OCA also believes that the corporate structure, governance and transparency issues that it identified have been adequately resolved by the Settlement. The OCA also notes that the Settlement provides for Duquesne to adhere to a Quality of Service Plan, and to provide reports and information to the Commission and the statutory parties concerning its level of performance with respect to the metrics contained in that Plan, without precluding the Commission’s exercise of its full powers to ensure the provision of safe and reasonable service. In addition to providing a mechanism to review and resolve universal service matters, the OCA notes that the Settlement also provides for continuation or expansion of Duquesne’s Customer Assistance Program, its Stay Warm Program, its Smart Comfort Program, and LIURP. For these reasons, the OCA supports the Settlement (Attachment C to the Settlement, at 3-9).

In its Statement in Support of the Settlement (Attachment D to the Settlement), the OSBA summarizes the issues of concern to it, as specified in its protest, and observes that (*Id.*, at 3-4):

These issues have been resolved to the satisfaction of the OSBA because of the following provision in the Settlement:

- d. DLC has agreed that there will be no general increase in distribution rates prior to January 1, 2010 (Settlement at II.B.1.). In effect, this stayout will be financed, at least in part, by the predicted reduction in the cost of capital;
- e. DLC will not claim an increase in the cost of capital as a result of the merger transaction for a period of 5 years (Settlement at

II.B.3). In effect, if the merger does not produce the predicted reduction in the cost of capital, ratepayers will be protected for at least five years;

- f. DLC commits to continuing the funding levels for its current planned infrastructure improvement plan for 2006 and 2007 (Settlement at II.F.1.). This commitment will reduce the risk that funds needed to operate the DLC system will be diverted to the Macquarie Consortium; and
- g. DLC has agreed to a Quality of Service Plan for the years 2007 through 2009, including specific distribution reliability metrics to be achieved, reporting requirements, and remedies for failure to achieve (Settlement at II.F.2-3.). This provision will also reduce the risk that funds needed to operate the DLC system will be diverted to the Macquarie Consortium.

At pages 2 and 3 of its Statement in Support of the Settlement, RESA offers the following as its reasons for supporting the Settlement in this case (Attachment E to the Settlement, at 2-3):

RESA submits that the comprehensive Settlement – in particular from RESA’s perspective, the competitively neutral Economic Development Program, the revisions to the corporate cost allocations among Duquesne and its affiliate companies, and the identification and quantification by an independent consultant of the cost of service and business functions provided to Duquesne’s electric generation supplier (“EGS”) affiliate Duquesne Light Energy – satisfies the legal requirements for Commission approval and the issuance of the necessary certificates of public convenience.

Direct Energy Services, LLC, which is a member of RESA, supports the Settlement because it believes that it resolves all issues pertaining to inter company cost allocations in this proceeding, as well as in Duquesne’s filing for POLR IV rates effective January 1, 2008 (Attachment F to the Settlement).

The DII support the Settlement for the reasons that (i) Duquesne will not claim the acquisition premium or transaction costs in future distribution or transmission rates; (ii) it expands the proposed Economic Development Program to enhance the possibility that existing Rate Schedule L and HVPS customers and customers served under Rate GL may be able to take

advantage of the incentive; and (iii) it implements a limited stay-out for changes to distribution rates (Appendix B to the Initial Decision, at 2-3).

The CAAP supports the Settlement in this proceeding because the Settlement adequately addresses its concerns concerning Duquesne's universal service programs, specifically pertaining to the funding levels for those programs and the need to employ local community-based organizations in the development and implementation of those programs (Appendix C to the Initial Decision).

The PALEUC supports the Settlement because of its provision that there will be no general increase in distribution rates before January 1, 2010, and the competitively neutral economic development program for large commercial and industrial customers. The PALEUC also notes that the ability of the parties to reach this Settlement will result in substantial savings of time and money that continued litigation would have required. Finally, the PALEUC notes that since the Settlement has been joined in, or is unopposed by all the active parties representing such different constituencies, there should be a strong suggestion that the Settlement satisfies the *City of York* standard and is in the public interest (Appendix D to the Initial Decision).

Strategic supports the Settlement because it provides a process for addressing Strategic's concerns pertaining to anticompetitive cross-subsidization issues that might not otherwise be available, and it also provides for the identification and potential mitigation of the adverse effects of any cross-subsidization among the Duquesne companies. (Appendix E to the Initial Decision).

It is clear that the several parties to this proceeding represent most, if not all ratepayer classes of Duquesne. Each participated for varied and divergent reasons, and each support the Settlement for many and varied reasons. However, when viewed as a whole, it is my opinion that the parties have negotiated a result to this proceeding that not only will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way (*City of York, supra.*), but which, in my opinion, will be an overall better result than if the various issues had been adjudicated through continued litigation. The benefits resulting to all

classes of Duquesne's ratepayers from this proceeding include, but are not limited to: (a) the period of rate stability until at least January 1, 2010; (b) the exclusion of the acquisition premium and transaction costs from future distribution and transmission rates; (c) Duquesne will not claim any increase in the cost of capital as a direct result of the transaction for a five (5) year period after closing; (d) Duquesne shall not request a capital structure for ratemaking purposes which is outside of a reasonable range of that used by comparable companies, and in any future base rate proceeding, it must demonstrate that its claimed common equity ratio is reasonable and in the best interests of its customers; (e) Duquesne's commitment to the Economic Development Program; (f) its adherence to a Quality of Service Plan; and (g) the continuation or expansion of Duquesne's Customer Assistance Program, its Stay Warm Program, its Smart Comfort Program, and LIURP. Given these and the other previously identified benefits that are expected to result from the Commission's approval of the applications in this proceeding, I would have no hesitation in approving the Settlement in this case.

After the Settlement in this case had been filed, the Commonwealth Court of Pennsylvania issued its opinion in *Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission*, No. 255 C.D. 2006, 2007 Pa. Cmmw. LEXIS 63 (February 20, 2007), in which that Court reversed the Commission's approval of the Verizon Communications, Inc. and MCI, Inc. merger, and remanded the proceeding to the Commission. Interim Order #2 granted the Joint Petitioners the opportunity to address whether and the extent to which this proceeding might be affected by the Commonwealth Court's decision. In their Joint Statement (Appendix G, at 3), the Joint Petitioners observe that:

The Settlement in this proceeding presents the Commission with a markedly different set of circumstances from the Verizon/MCI Merger reviewed by the Court in *Verizon* and therefore does not raise the same set of concerns cited by the Court. A significant difference, as noted above, is the pending Application was amicably resolved via Settlement among all parties which comprehensively resolves the divergent interests of the parties in this proceeding and all issues pertaining to the Application raised by the parties. Another difference is that Duquesne's distribution and transmission rates remain under traditional cost of service regulation while Verizon is no longer subject to such regulation of its rates, which are now governed by Chapter 30 of the Public Utility Code. 66 Pa.C.S. §§ 3011 et seq. The Settlement reached by the Joint Petitioners directly

addresses a number of the perceived infirmities noted by the Court in *Verizon* relative to the Verizon/MCI Merger. Nevertheless, the Merger and Settlement present in this proceeding provides the following terms and conditions which are substantially different than the matters addressed by the Commonwealth Court in *Verizon*...(Footnote omitted).

The Joint Petitioners then summarize these terms and conditions, which are more specifically stated in Part II of the Settlement.

The OSBA, a signatory to the Settlement filed a separate Supplemental Statement (Appendix H, at 5-6), in which it notes the specific conditions of the Settlement that will benefit the public. Additionally, both Joint Petitioners and the OSBA note that one of the procedural differences between the Commission's approval of the Verizon/MCI merger and this proceeding are the specific conditions agreed to by the Joint Petitioners. Accordingly, all parties believe that the Commonwealth Court's recent decision in *Popowsky, supra.*, is not an impediment to the Commission's approval of the Settlement in this case.

It appears to me that in *Popowsky, supra.*, the Commonwealth Court disapproved of the Commission's reliance on determinations made by Federal agencies with respect to the Verizon/MCI merger, without having imposed Pennsylvania specific conditions on the certificate approving the merger to ensure substantial benefits to the public in the Commonwealth. I believe that the Joint Petitioners are correct that the development of specific conditions to be applicable to the certificates to be issued upon approval of the Settlement make this case markedly different from that before the Commonwealth Court in *Popowsky, supra.* Thus, it is my opinion that the Commission is not precluded from approving the Settlement in this case.

CONCLUSIONS OF LAW

1. The parties to and subject matters of this merger application proceeding are properly before the Commission.

2. The Settlement submitted by the Joint Petitioners in this proceeding meets the affirmative benefits test as set forth in *City of York v. Pa. P.U.C.*, 295 A.2d 825 (Pa. 1972).

3. The Settlement submitted by the Joint Petitioners in this proceeding also satisfies the ten specific public interest findings that the Commission considered in its Order in *Application of Penn Estates Utilities, Inc., Docket No. A-210072F0003*, et al., Order entered October 2, 2006.

4. The decision of the Commonwealth Court of Pennsylvania in *Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission*, No. 255 C.D. 2006, 2007 Pa. Cmmw. LEXIS 63 (February 20, 2007), does not preclude the Commission from approving the Settlement in this case.

5. The Settlement is in the public interest and should be approved.

6. The Certificates of Public Convenience should be made expressly subject to each of the terms in Part II of the Settlement.

ORDER

THEREFORE,

IT IS ORDERED:

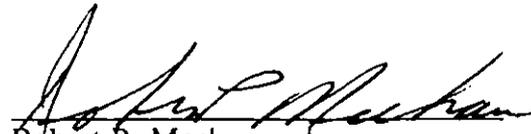
1. That the Joint Petition for Settlement submitted in Application of Duquesne Light Company for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code approving the acquisition of Duquesne Light Holding, Inc. by Merger, at Docket No. A-110150F0035, and Application of DQE Communications Network Services, LLC, for a Certificate of Public Convenience under Section 1101(a)(3) of the Public Utility Code

approving the acquisition of Duquesne Light Holding, Inc. by Merger, at Docket No. A-311233F0002, is approved.

2. That Certificates of Public Convenience be issued evidencing the Commission's approvals of the applications at Docket Nos. A-110150F0035 and A-311233F0002, as amended by the Joint Petition for Settlement approved in Ordering Paragraph 1, above.

3. That the Certificates of Public Convenience to be issued at Docket Nos. A-110150F0035 and A-311233F0002 are hereby made subject to the Terms and Conditions of the Joint Petition for Settlement, set forth in Part II, Paragraph 10, pages 4-18, as though each term and condition were made the subject herein of a separate Ordering Paragraph.

4. That the protests filed against the applications at Docket Nos. A-110150F0035 and A-311233F0002 are dismissed.


Robert P. Meehan
Administrative Law Judge

Date: March 20, 2007

LLC (“Strategic”) and Pennsylvania Large Energy Users Coalition (“PALEUC”) (hereinafter collectively referred to as “Joint Petitioners”).³

The terms and conditions set forth in this Settlement represent a comprehensive settlement and resolve all issues pertaining to the above-captioned Application. The Joint Petitioners aver that this comprehensive Settlement is in the public interest, and therefore, request that Administrative Law Judge Robert P. Meehan (the “ALJ”) and the Pennsylvania Public Utility Commission (“Commission”): (1) approve without modification the proposed Settlement as set forth herein; and (2) issue the Certificates of Public Convenience and grant all necessary approvals to carry out the transactions in a lawful manner.

In support of their request, the Joint Petitioners state as follows:

I. BACKGROUND

1. On September 6, 2006, Duquesne and Network filed, with the Commission, a joint application (the “Application”) requesting all necessary approvals authorizing the transfer of control of their parent, Duquesne Light Holdings, Inc. (“DLH”) to the Macquarie Consortium, a group of six investment funds, with the majority of the equity in the transaction provided by funds managed by the Macquarie Group.

2. As described in further detail in the Application, the Macquarie Consortium owns DQE Holding LLC (“DQE Holdings”), a Delaware limited liability company. DQE Holdings has created DQE Merger Sub, Inc., a Pennsylvania corporation and wholly-owned subsidiary of DQE Holdings. Under the proposed Merger, all of DLH’s common stock will be purchased by DQE Holdings, and DQE Merger Sub, Inc. will merge into and with DLH. As a result, DLH will continue as the surviving corporation and as the sole wholly-owned subsidiary of DQE

³ Citizen Power Inc. (“Citizen Power”) has authorized Joint Petitioners to state that Citizen Power does not oppose this Settlement and that it will submit a letter of non-opposition to the Commission.

Holdings. Duquesne and Network will continue to be wholly-owned subsidiaries of DLH, and retain their separate corporate identities and franchises.

3. The Application was docketed at A-110150F0035 and A-311233F0002. Notice of the filing of the Application was published in the *Pennsylvania Bulletin* on September 16, 2006, 26 Pa.B. 5854. The notice specified that protests to the Application or Petitions to Intervene were to be filed on or before October 2, 2006.

4. OTS filed a Notice of Appearance. Timely protests and notices of intervention were filed by OCA and OSBA. In addition, timely Petitions to Intervene/Protests were filed by IBEW 29, CAAP, Dominion, DII, RESA, Strategic, PALEUC and Citizen Power.

5. On September 15, 2006, Duquesne and Network filed their direct testimony.

6. On November 28, 2006, a Prehearing Conference was held by the ALJ. No objections were raised to any of the Protests/Petitions to Intervene, and all were granted party status. At the Prehearing Conference, various other procedural matters were addressed, including the establishment of a litigation schedule.

7. Substantial discovery was undertaken by the parties, and direct, rebuttal and surrebuttal testimony was filed.

8. Extensive settlement negotiations and conferences were conducted among the parties, both jointly and on an individual basis.

9. Prior to the scheduled dates for hearings, the Joint Petitioners achieved a complete settlement of all issues, and hearings were canceled.

II. TERMS AND CONDITIONS

10. The Joint Petitioners agree to settle and resolve issues in the above-captioned proceeding on the following terms and conditions:

A. Support For Settlement

1. The Joint Petitioners agree to support approval of the Merger and Duquesne's and Network's Application for Certificates of Public Convenience will be approved, subject to the conditions below.
2. The Joint Petitioners agree that they will support or not oppose the Securities Certificate(s) to be filed forthwith by Duquesne with the Commission requesting approval of a new 5-year Revolving Credit Agreement as described in the Application, in order to close on the transaction without delay.⁴

B. Rate Issues

1. Duquesne will not file a proposed general increase in distribution rates under Section 1308(d) of the Public Utility Code that would become effective after full suspension prior to January 1, 2010, and Duquesne agrees that there shall be no general increase in distribution rates prior to January 1, 2010, unless there are substantial changes in regulation or federal tax rates or policy. This condition shall not affect Duquesne's ability to adjust its retail transmission rates or its Provider of Last Resort ("POLR") rates on a timely basis. This condition shall not prohibit application of the State Tax Adjustment clause to recover increases in state taxes prior to January 1, 2010. This provision also shall not prohibit Duquesne from seeking to recover universal service costs through a surcharge

⁴ The Securities Certificate was filed with the Commission on February 2, 2007 and is docketed at S-00061180.

mechanism on or after January 1, 2010, or any party to this settlement from opposing such a proposal.

2. Joint Petitioners agree that all aspects of the acquisition premium and transaction costs, including third party consultants, financial advisory services and due diligence costs as set forth in the response to OCA Set III-21, attached hereto as Appendix "A," including all related tax effects, will be excluded from future distribution and transmission rates.
3. Duquesne will not claim any increase in the cost of capital as a direct result of the transaction for a five (5) year period after closing.
 - a. Duquesne shall not request a capital structure for ratemaking purposes which is outside of a reasonable range of that used by comparable companies. In any future base rate proceeding, Duquesne must demonstrate that its claimed common equity ratio is reasonable and in the best interests of its customers; and
 - b. Duquesne shall not claim, for 5 years following the closing, any increase in its cost of capital due to any downgrading of Duquesne debt as a direct result of the Merger.

C. Corporate Headquarters

1. DQE Holdings and the Macquarie Consortium, and its investors, will continue to maintain Duquesne's corporate headquarters in Pittsburgh, Pennsylvania. All of the corporate functions will be performed and maintained at such headquarters so that Duquesne and its management team will continue to be locally based. DQE

Holdings agrees not to move Duquesne's headquarters outside Duquesne's service territory without advance approval of the Commission.

D. Access To Books And Records

1. Upon written request, Duquesne and its subsidiaries will provide the Commission, the OTS, the OCA and the OSBA reasonable access to the books and records, officials and staff of DLH and its subsidiaries in Pittsburgh, Pennsylvania. However, nothing set forth herein shall constitute or be interpreted as a waiver by DLH or its subsidiaries of its right to raise traditional discovery objections to any such requests, including, but not limited to, objections on the basis of relevance and privilege. In addition, before responding to any such requests, DLH and its subsidiaries shall be permitted to require the imposition of protections they deem necessary to prohibit disclosure of proprietary or confidential information.

E. Corporate Structure Protections, Financial Conditions And Governance

1. From and after the effective date of this Settlement, Duquesne shall not: (1) guarantee the debt or credit instruments of DLH or any affiliate not regulated by the Commission, except as approved by the Commission upon a determination that such guarantee provides net benefits to customers; (2) grant a mortgage or other lien on any property used and useful by Duquesne in providing retail utility service to the public subject to the Commission's jurisdiction, except for the financing needs of Duquesne; or (3) make any loan or otherwise extend credit to DLH or any affiliate not regulated by the Commission for a term of one year or more, except as approved by the Commission upon a determination that such loan or credit extension provides net benefits to customers.

2. DQE Holdings will not permit a change in ownership among the members of DQE Holdings without prior Commission approval if such change would result in a change in control under the then-applicable Commission standards.
3. Duquesne will seek Commission approval of all new or amended agreements with affiliates consistent with Chapter 21 of the Public Utility Code.
4. Duquesne shall provide the OTS, OCA and OSBA with a copy of its annual reports filed with the Securities and Exchange Commission.
5. Commencing March 31, 2008 and ending March 31, 2010, Duquesne will provide an annual report to the Commission as to the status of all commitments made in this Settlement.
6. Duquesne agrees to continue to have outstanding separately issued debt held by investors not affiliated with Duquesne or its affiliates, unless the Commission authorizes to the contrary.
7. DLH and its subsidiaries, including Duquesne, will provide, upon request, to OTS, OCA and OSBA access in connection with rate proceedings and other proceedings before the Commission, where relevant, to presentations given by DLH and its subsidiaries to common stock, bond, or rating analysts. Such material will be accorded confidential treatment.
8. Duquesne's long term debt ratio as a percent of total capitalization shall not exceed 60% absent approval from the Commission. Any request for approval will be considered on an expedited basis, if so requested.
9. Duquesne shall notify the Commission of its intention to declare a special cash dividend to DLH, at least 30 days before declaring the dividend.

10. The CEO of DLH will be a member of the board of DQE Holdings, and will also chair a management committee which will contain representatives of both the senior management team and the Macquarie Consortium.

F. Reliability And Customer Service

1. Duquesne commits to its current planned funding levels of its infrastructure improvement plan for years 2006 and 2007.
2. Duquesne agrees to the following Quality of Service Plan ("Service Plan") during the period from January 1, 2007 through December 31, 2009. The Service Plan establishes the following metrics and reporting requirements to allow for the monitoring of the quality of service provided by Duquesne and to identify any significant changes to Duquesne's reliability and service levels:

Quality of Service Plan	
Performance Area Index	Metrics
Reliability	
SAIFI (12 Month)	1.17
CAIDI (12 Month)	108
Customer Service	
The percent calls answered within 30 seconds	76%
The average busy out rate	0.5%
The average call abandonment rate	4%
Percent of residential bills not rendered once every billing cycle	0.01%

Duquesne will provide a report each year to the Commission, OCA, OTS and OSBA identifying its performance and the metrics in the Service Plan set forth in the above table. Duquesne will also include in its report its performance in the areas of: Number of Residential Customer disputes not issued a report within 30 days; Residential Termination Rate (terminations per 1000 residential customers); Justified Residential Payment Arrangement Request Rate; and Justified Residential Consumer Complaint Rate. However, such reported metrics are not considered as part of the Service Plan for purposes of this provision.

Duquesne agrees that, in any year during the effective period of the Service Plan, if its reliability or service levels are not equal to or better than the reporting metrics set forth in the Service Plan, Duquesne will provide the Commission, OCA, OTS and OSBA with a report that will identify the reasons for the variance and identify any management actions that Duquesne intends to undertake in response to any variation. Duquesne will then convene a collaborative with OCA, OTS and the OSBA to discuss such report. The Commission may, upon motion of any Party or upon its own motion, open a formal proceeding concerning reliability or service.

If following such a collaborative, OTS, OCA or OSBA request a proceeding before the Commission, Duquesne will not oppose the initiation of such a proceeding; however Duquesne reserves the right to oppose the proceeding if it is being initiated as a result of Duquesne exceeding one but not both of the reliability metrics set forth above.

3. Nothing contained herein is intended to limit the authority of the Commission to consider quality of service pursuant to Sections 523 and 526 of the Public Utility Code in setting Duquesne's rates, or the Bureaus of the Commission from performing their duties and making recommendations, including recommendations regarding fines for failure of Duquesne to provide safe and reliable service.
4. Duquesne will maintain operating locations and field offices in its territory, and staffing levels, as appropriate, to provide safe and reliable service, consistent with good utility practices. In addition, Duquesne acknowledges that the change in ownership resulting from this transaction is not an extraordinary circumstance under the existing Collective Bargaining Agreement.

G. Universal Service

1. Duquesne will continue to fund its Customer Assistance Program ("CAP") consistent with its needs analysis.
2. Duquesne will continue to coordinate with administering agencies and community based organizations ("CBOs") to administer low-income assistance programs. Duquesne will convene a collaborative ("Universal Service Collaborative") of local representatives of low income groups, CBOs and the OCA to consider universal service programs so as to enhance Duquesne's programs within current funding levels, including discussing increasing the involvement of CAAP and the PA Weatherization Task Force in referrals to and from Duquesne for its Low Income Usage Reduction Program ("LIURP" or "Smart Comfort"). The collaborative will meet no less than once per year and will include a

representative of CAAP and a representative from the Pennsylvania weatherization network providers.

3. Duquesne will continue to fund LIURP consistent with the settlement reached in Docket No. R-00061346 by agreeing to fund the \$1.531 million plus any carryover from 2006 on LIURP in future program years during 2007 through 2009. Duquesne will increase the number of customers served under its Smart Comfort program from 2,250 customers per year to 3,000 customers per year for the period 2007 – 2009, except for 2008 where Duquesne will commit to serving 4,000 customers and, on approval from the Commission's Bureau of Consumer Services ("BCS"), target the additional 750 visits to customers with incomes between 150% and 200% of the federal poverty level.
4. Duquesne will agree not to transfer LIURP funds collected during the period 2007 through 2009 to other universal service programs.
5. Duquesne agrees that it will make all reasonable efforts to expend LIURP funding available each calendar year. Subject to any necessary approval by the BCS, Duquesne will agree to raise the income eligibility needs to 200%, and/or expanding outreach efforts, and/or increasing the numbers of customers served. Duquesne will advise the universal service collaborative of the status of LIURP expenditures on a quarterly basis during the period 2007 through 2009.
6. Subject to approval of its partners, Duquesne will agree to involve CAAP and the Pennsylvania Weatherization Task Force in its partnership regarding the provision of weatherization services.

7. Duquesne will continue its Stay Warm Program as needed for the winter of 2006/2007 and consistent with its needs analysis, in subsequent winter periods during the stay-out period set forth in Paragraph 10.B.1. of this Agreement.
8. Duquesne agrees to provide copies of its future Universal Service Plans to CAAP and the Pennsylvania Weatherization Task Force upon filing and will not object to CAAP's or the Pennsylvania Weatherization Task Force's submission of comments regarding such universal service plans, including the Universal Service Plan to be filed in early 2007.

H. Community Commitment

1. For a period of five (5) years, Duquesne will provide corporate contributions and community support in southwestern Pennsylvania at least at levels substantially comparable to the levels provided by the Company in 2006. (For 2006, that is approximately \$2.9 million). In addition, Duquesne will continue to match customer contributions to the Dollar Energy Fund with shareholder dollars up to \$375,000.
2. Duquesne will establish a competitively neutral Economic Development Program to attract and support expanding Pennsylvania industrial employers by offering a flat 50 MW block (7 days by 24 hours) of energy consumed at the new or expanded facility at a discount up to \$3 per MWh below market for three years to commercial/industrial customers on Schedules HVPS and L that intend to add at least 10 MW of new or expanding load and create two new full time employment positions per MW of new load. Duquesne will also consider applications for funding for new or expanded load under Rate GL or, for customers on schedules

HVPS and L that do not meet the above two (2) criteria, if the applicant demonstrates that the new or expanded load, while less than 10 MW, has other significant benefits, such as increasing off-peak power that could be utilized to a greater extent than on peak power, or providing attractive or improved load factor or power factor, or offers significant new employment. The program will terminate on March 1, 2013 or earlier if the state adopts a state-wide economic development plan and will be funded solely by shareholder funds for the term of the program. To accomplish competitive neutrality, Duquesne will not condition the discount upon the customer's obtaining energy under the POLR service or purchase of energy from an affiliate of Duquesne and Duquesne will provide written notice to each grant applicant that the discount is not conditioned on the purchase of energy from Duquesne or its affiliates, and that eligible customers may obtain 100% of their generation supply from Electric Generation Suppliers ("EGSs") not affiliated with Duquesne.

I. Corporate Cost Allocations

1. Duquesne's corporate cost allocations will include a rent charge for the percentage of space occupied by employees who provide services to an affiliate, and a supplies charge for supplies the employee may use in providing services to affiliates.
2. Duquesne's corporate cost allocations will provide that all costs incurred by DLH, including any costs allocated from Duquesne to DLH, will be allocated, to the extent appropriate, to other Duquesne affiliates.

3. Duquesne's corporate cost allocations will include appropriate charges to all affiliates for costs incurred on their behalf by DLH for letters of credit and sureties and will allocate appropriate charges associated with the DLH revolving credit agreement.
4. Duquesne will provide a report, as part of its upcoming POLR IV filing, setting forth the specifics of these revisions to its corporate cost allocations.

J. Competitive Markets

1. Duquesne agrees to continue its support of the development of competitive retail electric market in its service territory consistent with all applicable Pennsylvania laws and regulations.
2. In addition to existing structural separation and cost allocation rules and procedures, DLH will provide the following:
 - a. DLH at its expense, will arrange with an independent auditor/consultant with experience in cost allocations, to conduct an assessment to identify and quantify the cost of the services and business functions provided to Duquesne Light Energy ("DLE") by its affiliates and to provide for the remittance of compensation for services rendered to DLE (or any other affiliated EGS) by any other Duquesne companies. Specifically, the independent auditor/consultant assessment will include :
 - (1) The identification and quantification of the cost of the services and business functions provided to DLE by Duquesne ("Duquesne Costs") or other Duquesne companies, other than Power Procurement Services, and

(2) The identification and quantification of the cost of Power Procurement Services. For the purposes of this paragraph, Power Procurement Services shall mean:

- (i) The cost of any credit support provided directly to DLE, or indirectly via credit support provided to Duquesne Power ("DP") (or any other affiliate), and used for joint power procurement;
- (ii) The reduced cost (if any) of purchased power (as compared to similar power procurement arrangements that might be made with a non-affiliate) realized by DLE as a result of its power procurement arrangement with DP (or any other affiliate);
- (iii) The cost of power procurement support functions (such as, but not limited to, wholesale power procurement, hedging, scheduling, balancing, forecasting and RTO/ISO settlement activities) provided directly to DLE or that DLE indirectly receives due to its power procurement arrangement with DP (or any other affiliate); and
- (iv) The cost of administrative support provided by other Duquesne companies directly to DLE or that DLE indirectly benefits from due to its power procurement arrangement with DP (or any other affiliate).

With respect to Power Procurement Services the independent auditor/consultant also will quantify what the cost of such Power Procurement Services would be if they were acquired by DLE independently

(hereinafter "Independent Acquisition Cost Analysis"); provided, however, that this Independent Acquisition Cost Analysis will not be applied to : (1) credit support provided directly to DLE by DLH or Duquesne, if, for the calendar year 2006, a portion of the cost of such credit support was allocated to DLE as an intercompany transfer; and (2) any Power Procurement Service costs where the service provided by the non-regulated affiliate is obtained from independent third parties. Notwithstanding the above, in no event will the Independent Acquisition Cost Analysis include any costs incurred by Duquesne.

- b. The independent auditor/consultant described in paragraph 10.J.2.a. above, shall be selected from a list of three (3) qualified consultants identified by Duquesne and provided to RESA. From this list RESA shall have the right to select the independent auditor/consultant, unless RESA reasonably determines that none of the consultants are in fact independent or qualified to conduct the required analysis, in which case the parties will prepare a list of six (6) qualified consultants, three (3) of whom shall be identified by Duquesne (and none of whom were on Duquesne's previous list) and three (3) of whom shall be identified by RESA. If the parties can agree on a consultant from this list, that auditor/consultant will perform the study. If the parties cannot agree, then each party will rank the six auditor/consultants in descending order of preference, and the auditor/consultant with the lowest overall score will be selected.

- c. The independent auditor/consultant selected above will perform an audit for calendar year 2007. The results of the non-confidential portion of the third party report will be made available to RESA and Strategic. Confidential portions, including items such as contract provisions, pricing and salary information, shall not be shared with any suppliers except consistent with the Stipulated Protective Agreement executed in this proceeding including Duquesne's ability to redact information relative to pricing and load projections (subject to the supplier's right to obtain an order from the Commission requiring production because such data is required to be provided under the terms of that Stipulated Protective Agreement). In addition, the independent auditor/consultant, RESA and Strategic will not be provided with individual electric retail customer pricing and load information. The independent auditor/consultant will conduct an internal audit to evaluate compliance with the accepted recommendations from the independent auditor/consultant and provide interested RESA members with the results of the audit.
- d. DLE will remit payment to appropriate other Duquesne companies for the Duquesne Costs or other Duquesne companies' costs and Power Procurement Services costs as defined above (and as determined in the independent third party report), of all services and business support functions provided by affiliate companies identified in the independent third party assessment described above and agreed to by DLH. DLH reserves the right to reject assessment recommendations made by the

independent auditor/consultant. However, except for the limitation in paragraph "e", below, nothing in this Agreement shall limit the right of any of the parties from pursuing any available legal recourse, including the filing of a complaint or other request for relief with the Commission regarding any affiliated interest, inter-company cross subsidy or competitive issue involving Duquesne or any affiliate of Duquesne. No party shall be deemed to have adopted or accepted the cost allocation principles set forth herein as fair, reasonable or sufficient to avoid uncompetitive cross subsidies for Duquesne or for any other public utility.

- e. Collectively RESA and independently its members Direct Energy Services, LLC, Hess Corporation and Strategic agree that this settlement resolves all issues relating to inter company cost allocations in this proceeding and in Duquesne's filing to establish POLR IV rates effective January 1, 2008.

III. CONDITIONS OF SETTLEMENT

11. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with litigation and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an order modifying the Settlement. This Settlement is proposed by the Joint Petitioners to settle all issues among the Joint Petitioners in the instant proceeding. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner to this Settlement may adopt in

the event of any subsequent litigation of this proceeding or any other proceeding, unless that proceeding involves Duquesne or Network to the extent matters resolved by this Settlement are an issue in that proceeding. If the Commission does not approve the Settlement and the proceedings continue to further hearings, the Joint Petitioners reserve their respective rights to conduct full cross-examination and briefing.

12. The consummation and closing of the Merger shall constitute conditions precedent to the Settlement and all obligations of the Joint Petitioners hereunder, and Duquesne and the other Joint Petitioners shall not be bound by the terms hereof if Duquesne advises the Commission and the parties that the Merger will not close and requests that the Commission cancel the Certificates of Public Convenience to be issued hereunder.

13. The Joint Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in any other proceeding, including any other proceeding involving a merger or acquisition involving another Pennsylvania public utility, with the exception that the Settlement, if adopted, will bind the Joint Petitioners in any future proceeding involving Duquesne or Network to the extent matters resolved by this Settlement are an issue in such proceeding.

14. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their rights to file exceptions.

IV. PUBLIC INTEREST REASONS IN SUPPORT OF SETTLEMENT

15. The Settlement, if approved by the Commission, will provide substantial public benefits. These benefits⁵ include the following:

⁵ The explanations provided below include summaries of Settlement provisions and do not modify in any manner the specific provisions of the Settlement.

- Duquesne has agreed to a provision that will provide customers with reasonable assurance of distribution rate stability to at least January 1, 2010.
- All aspects of the acquisition premium and transaction costs will be excluded from future distribution and transmission rates.
- Duquesne commits to provide annual reports to the Commission over the next three years regarding the status of all commitments under the Settlement.
- Duquesne agrees to adopt a Quality of Service Plan that (i) establishes metrics and reporting requirements to enable the Commission and parties to monitor Duquesne's quality of service following the Merger and (ii) provides a process to address variances from the Quality of Service Plan.
- The Merger will provide Duquesne with an opportunity to obtain more efficient access to capital.
- The Merger will establish a competitively neutral Economic Development Plan to attract new and support expanding Pennsylvania industrial employers.
- Duquesne commits to continue its substantial community commitments at least at levels substantially comparable to current levels.
- Duquesne commits to retain its headquarters and all of its corporate functions in Pittsburgh and commits not to move its headquarters outside the service territory without prior Commission approval.
- The Settlement avoids the additional expenditure of time and funds that would be required to litigate this matter before the Commission.

16. The Joint Petitioners agree that the Merger, as amended by the Settlement, meets the affirmative benefits test as set forth in *City of York v. Pa. P.U.C.*, 449 Pa. 136, 295 A.2d 825

(1972) and also satisfies the ten specific public interest findings that the Commission considered in its Order in *Application of Penn Estates Utilities, Inc, Docket No. A-210072F0003, et al., Order entered October 2, 2006*, as summarized next, and as set forth more specifically in the Settlement and record.⁶

A. Capital Will Continue To Be Expended For Ongoing Operations

- Duquesne commits to its current planned funding levels of its infrastructure improvement plan. (Settlement Paragraph 10.F.1.)
- Duquesne’s agreement to adopt a Quality of Service plan demonstrates its commitment to continue to provide high quality service. (Settlement Paragraph 10.F.2)
- Duquesne’s current collective bargaining agreement will be honored, which provides that: “No regular full-time employee hired on or before June 1, 2005 shall be laid off except under extraordinary circumstances” Duquesne further acknowledges under the Settlement that the Merger transaction is not an “extraordinary circumstance.” (DLC St. No. 1, p. 16; Settlement Paragraph 10.F.4.)
- Duquesne commits to continue and expand its universal service programs. (Settlement Paragraph 10.G.1. and 10.G.3.)

B. Corporate Governance Will Not Be Impaired

- DQE Holdings and the current CEO of DLH have executed an employment agreement providing that the CEO will continue to lead DLH. Further, the CEO of DLH will be a member of the board of DQE Holdings. (Settlement Paragraph 10.E.10.)

⁶ To the extent the following summary is supported by testimony and exhibits of Applicants, Joint Petitioners other than Applicants do not necessarily join in such summary.

- The CEO will chair a management committee which will contain representatives of the senior management team and the Macquarie Consortium. (Settlement Paragraph 10.E.10.)
- Duquesne will provide annual reports (10-K) filed with the Securities and Exchange Commission to OTS, OCA and OSBA. (Settlement Paragraph 10.E.4.)

C. The Macquarie Consortium Anticipates A Long-Term Ownership Of DLH

- The focus of the infrastructure investment funds that make up the Macquarie Consortium is the long-term ownership, management and development of important infrastructure assets. (DLC St. No. 2, p. 3)
- Public sector and corporate pension funds are large investors in the funds that make up the Macquarie Consortium. Such investors seek investments that produce long-term cash flows to offset their long-term liabilities, and thus do not require a sale or defined exit strategy to achieve their investment goals. (DLC St. No. 2, pp. 9-10; DLC St. No. 2R, p. 2)
- The Macquarie Consortium has a global track record demonstrating its commitment to the long term investment in Duquesne. (DLC St. No. 2, p. 10)

D. The Macquarie Group Has Substantial Experience In Owning Utilities

- The Macquarie Group manages funds that comprise approximately 64.3% of the equity in the Macquarie Consortium. In the United States, Macquarie Group's investments in energy and utilities include Aquarion Company, a New England water utility (pending acquisition, subject to regulatory approval), The Gas Company, a Hawaiian full service gas company, and Thermal Chicago, district energy businesses operating in Chicago and Las Vegas. (DLC St. No. 2, p. 5)

- Worldwide, Macquarie Group investments serve over 3.4 million gas distribution households, 4 million water households, and 550,000 electric distribution households. Macquarie Group also invests in electric transmission facilities that serve over 4 million people. (DLC St. No. 2, p. 4)
- Macquarie Group also has substantial investments in other “public service” sectors such as airports, toll roads and rail systems. (DLC St. No. 2, p. 4)
- Macquarie Group’s philosophy is to maintain existing management to continue existing operational excellence. This philosophy will be followed with respect to DQE Holdings. (DLC St. No. 2, p. 3)

E. Duquesne’s Existing Presence In The Pittsburgh Community Will Be Retained

- Duquesne’s corporate headquarters will remain in Pittsburgh, and will not be moved outside of Duquesne’s service territory without advance approval of the Commission. (Settlement Paragraph 10.C.1.)
- Duquesne and DQE Holdings commit to maintain operating locations and field offices in its territory, and staffing levels, as appropriate, to provide safe and reliable service. (Settlement Paragraph 10.C.1.)
- Duquesne will continue to coordinate with administering agencies and CBOs to administer its low income programs and will convene a collaborative of interested parties to consider Duquesne’s universal service programs. (Settlement Paragraph 10.G.2.)
- Duquesne commits to maintain corporate contributions and community support at least at levels comparable to the \$2.9 million provided in 2006. (Settlement Paragraph 10.H.1.)

- Duquesne commits to match customer contributions to its hardship fund with shareholders dollars up to \$375,000.
- Duquesne will establish a new Economic Development Program through March 1, 2013, to attract and expand Pennsylvania industrial employers by offering a flat 50 MW block (7x24) of energy consumed at the new or expanded facility at a discount up to \$3/MWh below market. (Settlement Paragraph 10.H.2.)

F. There Will Not Be Complex Affiliate Relationships Involved

- The Macquarie Consortium consists of six investment funds, all with similar strategies of investing in long term infrastructure. As investment funds, the Macquarie Consortium will not be providing services other than financing for DLH and Duquesne. (DLC St. No. 2, pp. 9-10; DLC St. No. 2R, pp. 5-7)
- Funds managed by the Macquarie Group will hold 64.3% of the equity in DQE Holdings, thereby owning the majority of the equity in the investment group. (DLC St. No. 2, p. 5)

G. Fees Paid To And Services Performed By Affiliates

- Services provided by other utilities in which the Macquarie Consortium has an interest will be provided only after the filing and approval of an affiliated interest agreement. (Settlement Paragraph 10.E.3.) Such services are expected to be limited, and in the nature of sharing of best practices. (DLC St. No. 2R, p. 6)
- There are no current plans to add new service corporations or similar affiliates to provide day to day services to Duquesne; however, Duquesne will have access to other utilities or entities managed by the Macquarie Consortium. (DLC St. No. 2R, p. 6)

- Duquesne will revise its corporate cost allocations to include a rent charge for space occupied by affiliates, and a supplies charge for supplies used by affiliate employees. (Settlement Paragraph 10.I.1.)
- Costs incurred by DLH will be allocated, as appropriate, to other Duquesne affiliates. (Settlement Paragraph 10.I.2.)
- Duquesne's cost allocations will include appropriate charges for letters of credit, sureties and the DLH revolving credit agreement. (Settlement Paragraph 10.I.3.)
- Duquesne will provide a report detailing its recent revisions to corporate cost allocations in the POLR IV filing. (Settlement Paragraph 10.I.4.)

H. The Settlement Commits To Limits On Duquesne's Use Of Leverage And Other Capital Structure Protections

- The Settlement provides that Duquesne's long-term debt ratio will not exceed 60% of total capitalization without Commission approval. (Settlement Paragraph 10.E.8.)
- Duquesne agrees to continue to have outstanding separately issued debt held by investors not affiliated with Duquesne or its affiliates, unless the Commission authorizes to the contrary. (Settlement Paragraph 10.E.6.)
- Duquesne commits to notify the Commission in advance if it intends to declare a special cash dividend to DLH. (Settlement Paragraph 10.E.9.)
- Duquesne commits in any future base rate proceeding to demonstrate that its claimed common equity ratio is reasonable and in the best interest of consumers.

I. The Settlement Ensures Transparency On Corporate Structure Issues

- Under the Settlement DLH and its subsidiaries agree to provide the Commission and various parties reasonable access to the books and records, officials and staff of DLH and its subsidiaries. (Settlement Paragraph 10.D.1.)

- Duquesne agrees not to guarantee debt of DLH or affiliates, grant liens upon its property, or to make loans or extend credit to DLH or any affiliate, without prior Commission approval. (Settlement Paragraph 10.E.1.)
- DLH and its subsidiaries will provide upon request to OTS, OCA and OSBA access, where relevant, to presentations given to the financial community. (Settlement Paragraph 10.E.7.)

J. The Macquarie Consortium Is Creditworthy

- The Macquarie Group, which consists of Macquarie Bank Limited, its affiliates and investment vehicles managed by its affiliates, manages funds that own approximately 64.3% of the equity in the transaction. (DLC St. No. 2, p. 1)
- The Macquarie Group currently manages over \$27 billion in equity invested in infrastructure and similar assets globally. (DLC St. No. 2, p. 4)
- The other investors not affiliated with the Macquarie Group each individually manage several billion dollars of investments. (DLC St. No. 2, p. 8)
- Over \$1 billion will be invested by the Macquarie Consortium in financing the purchase. (DLC St. No. 2, p. 6)
- As managers of large pools of investment funds, consisting largely of pension funds, the members of the Macquarie Consortium have substantial access to additional equity capital under all market conditions. (DLC St. No. 2, pp. 8-9)

The Merger Does Not Harm And Will Advance Retail Competition

17. In addition to the foregoing reasons in support, the Settlement and Merger satisfy the requirements of Section 2811(e) of the Public Utility Code, which directs the Commission to consider whether the proposed Merger “is likely to result in anticompetitive or discriminatory

conduct . . . which will prevent retail electricity customers in this Commonwealth from obtaining the benefits of a properly functioning and workable retail electricity market” Under the Settlement, Duquesne has agreed to a series of conditions responsive to concerns of competitive marketers. These include:

- Corporate cost allocation provisions described previously. (Settlement Paragraph 10.I.1-4.)
- Duquesne agrees to continue its support of the development of competitive retail markets. (Settlement Paragraph 10.J.1.)
- DLH agrees to arrange for an independent consultant to conduct an assessment to identify and quantify any costs for services and functions provided to non-regulated affiliates. (Settlement Paragraph 10.J.2.)
- The Economic Development Program, described previously, is available to customers without regard to the identity of their energy provider. (Settlement Paragraph 10.H.2.)

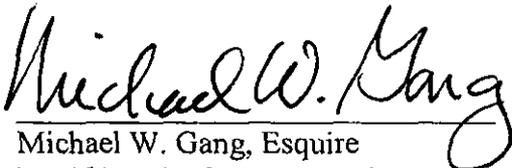
18. In addition to the foregoing, further explanations of why the Settlement is in the public interest are provided in the Statements in Support of the Settlement by Duquesne, Network, OTS, OCA, OSBA, IBEW 29, CAAP, Dominion, RESA, Strategic, DII and PALEUC, which will be submitted forthwith.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

(a) That the Honorable Administrative Law Judge Robert P. Meehan and the Commission approve this Settlement including all terms and conditions thereof without modification.

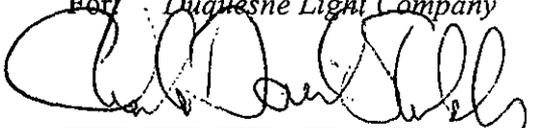
(b) That the Commission issue certificates of public convenience evidencing approval under Section 1102(a)(3) of the Public Utility Code of the acquisition, by merger, of Duquesne Light Holdings, Inc., the parent of Duquesne Light Company and DQE Communications Network Services LLC, by Macquarie Consortium and DQE Holdings, LLC and grant all such other approvals deemed necessary.

Respectfully submitted,



Michael W. Gang, Esquire
David B. MacGregor, Esquire
Andrew S. Tubbs, Esquire
Gary Jack, Esquire

For: *Duquesne Light Company*

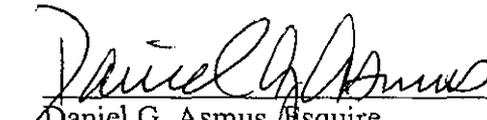


Charles Daniel Shields, Esquire
Robert V. Eckenrod, Esquire
For: *Office of Trial Staff*

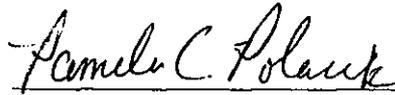


Tanya J. McCloskey, Esquire
Darryl Lawrence, Esquire
Jennedy E. Santolla, Esquire
For: *Office of Consumer Advocate*

Date: 2/8/07



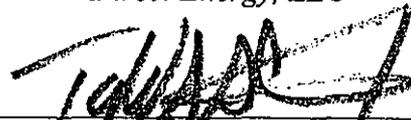
Daniel G. Asmus, Esquire
For: *Office of Small Business Advocate*



Pamela C. Polacek, Esquire
Adam L. Benshoff, Esquire
For: *Duquesne Industrial Intervenors*



Daniel Clearfield, Esquire
Kevin J. Moody, Esquire
For: *Retail Energy Supply Association
Hess Corporation
Direct Energy, LLC*



Todd S. Stewart, Esquire
For: *Dominion Retail, Inc.*

Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*

Joseph L. Vullo, Esquire

For: *Community Action Association of Pennsylvania*



Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*

Theodore H. Jobs, Esquire

Steven S. Goldenberg, Esquire

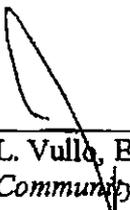
Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: 2/9/2007

Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*



Joseph L. Vullo, Esquire

For: *Community Action Association of Pennsylvania*

Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*

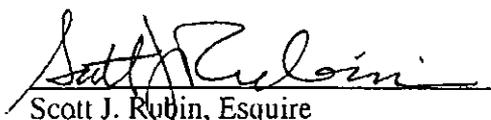
Theodore H. Jobes, Esquire

Steven S. Goldenberg, Esquire

Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: 2/09/07



Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*

Joseph L. Vullo, Esquire

For: *Community Action Association of Pennsylvania*

Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*

Theodore H. Jobes, Esquire

Steven S. Goldenberg, Esquire

Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: *Feb. 9, 2007*

Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*

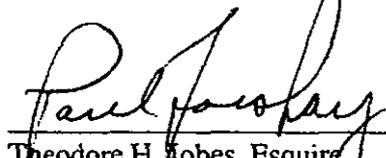
Joseph L. Vullo, Esquire

For: *Community Action Association of Pennsylvania*

Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*



Theodore H. Tobes, Esquire

Steven S. Goldenberg, Esquire

Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: 2/8/07

Duquesne Light Company and
 DQE Communications Network Services, LLC
 Docket Nos. A-110150F0035 and A-311233F0002

OCA-III-21
 Sponsor: CHRIS LESLIE
 Page 1 of 1

**RESPONSES TO OFFICE OF CONSUMER ADVOCATE
 INTERROGATORIES – SET III**

21. Please provide a detailed statement of the transaction costs associated with this acquisition. Does Duquesne intent to seek rate recovery for any transaction costs from retail or wholesale (i.e., transmission) utility customers?

RESPONSE:

A detailed schedule of estimated transaction expenses as of the date of signing is included below. Duquesne does not intend to seek rate recovery for any of the transaction costs listed below.

<u>Estimated Transaction Costs</u> ¹	
Third Party Consultant Costs	8,525
Financial Advisory	29,908
Duquesne Due Diligence Costs ²	5,000
Total Estimated Transaction Costs	43,433

1. Numbers reflect Macquarie's estimate of transaction costs at signing (7/5/06), and are likely to differ based on actual invoices
 2. Macquarie pre-signing estimate of transaction costs incurred by Duquesne

JOINT PETITION FOR SETTLEMENT

Docket Nos. A-110150F0035 & A-311233F0002

INDEX OF ATTACHMENTS

- A. Statement of Duquesne Light Company/DQE Communications Network Services LLC/DQE Holdings LLC In Support of the Joint Petition for Settlement of All Issues
- B. Office of Trial Staff Statement in Support of Joint Petition for Settlement
- C. Statement of the Office of Consumer Advocate in Support of the Joint Petition for Settlement
- D. Statement of the Office of Small Business Advocate in Support of the Joint Petition for Settlement
- E. Statement of Retail Energy Supply Association in Support of the Joint Petition for Settlement
- F. Correspondence from Direct Energy Services, LLC supporting Joint Petition for Settlement

ATTACHMENT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. by Merger	:	:	Docket No. A-110150F0035
Application of DQE Communications Network Services LLC for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. by Merger	:	:	Docket No. A-311233F0002

**STATEMENT OF DUQUESNE LIGHT COMPANY/DQE COMMUNICATIONS
NETWORK SERVICES LLC/DQE HOLDINGS LLC
IN SUPPORT OF THE JOINT PETITION FOR
SETTLEMENT OF ALL ISSUES**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE ROBERT P. MEEHAN:

This Joint Application (the "Application") requests the Commission to issue all necessary approvals authorizing the transfer of control of Duquesne Light Holdings, Inc. ("DLH"), the parent of Duquesne Light Company ("Duquesne") to the Macquarie Consortium.¹ Duquesne, DQE Communications Network LLC ("Network"),² DLH and DQE Holdings LLC ("DQE Holdings") believe that the Settlement achieved by the Parties³ of all issues associated with the

¹ The Macquarie Consortium is a group of six investment funds, with the majority of the equity in the transaction provided by funds managed by the Macquarie Group.

² DQE Communications Network Services LLC ("Network") holds a Certificate of Public Convenience to provide service as a Competitive Access Provider throughout the Commonwealth of Pennsylvania. Network and its parents are wholly owned by DLH. *Application of DQE Communications Network Services LLC for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania*, Docket No. A-311233 (Order entered on November 23, 2004).

³ The Parties are the Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission ("Commission"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), Duquesne Industrial Intervenors ("DI"), Pennsylvania Large Energy Users Coalition ("PLEUC"), International Brotherhood of Electrical Workers Local 29 ("IBEW"), Community Action Association of Pennsylvania ("CAAP"), Retail Energy Supply Association ("RESA"), Strategic Energy, LLC ("Strategic Energy"), Dominion Retail, Inc. ("Dominion"), Duquesne and Network, (collectively referred to as the "Parties"). Citizen Power has indicated that it does not oppose this Settlement and will submit a letter of non-opposition.

Application is in the best interest of Duquesne and its customers, and therefore, is in the public interest. In addition, the Merger, as amended by the Settlement, meets the affirmative benefits test as set forth in *City of York v. Pa. P.U.C.*, 449 Pa. 136, 295 A.2d 825 (1972) and also satisfies the ten specific public interest findings that the Commission considered in its Order in *Application of Penn Estates Utilities, Inc., Docket No. A-210072F0003, et al.*, Order entered October 2, 2006. In support thereof, Duquesne, Network and DQE Holdings submit this Statement in Support to explain the numerous reasons that support these conclusions.

I. THE SETTLEMENT IS CLEARLY IN THE PUBLIC INTEREST.

Duquesne and its senior management team are continually evaluating its operations to identify means by which to improve its operational and financial status and to continue to improve service to its customers and the communities in which they serve. This evaluation resulted in its successful "Back to Basics" strategy which reduced business risk and focused Duquesne's capital and management resources on its core electric business. DLC St. No. 1, p. 10. In addition, Duquesne's customers have benefited through infrastructure investments and improved reliability. However, one result of that strategy has been to narrow and sharpen Duquesne's business focus through disposal of unrelated businesses, thereby narrowing the company's ability to generate earnings per share growth, and placing pressure on the dividend and share price. While this strategy has been successful, external changes made it clear to Duquesne that proactive measures were required to maintain its position as the hometown electric distribution company of Pittsburgh and surrounding communities.

This Merger is a vital, proactive step that will result in significant benefits for Duquesne, its customers and the communities it serves. Specifically, approval of the transaction between DLH and the Macquarie Consortium will: (1) maintain Duquesne, its management and its

dedicated employees in Pittsburgh; (2) increase Duquesne's access to a capital on more reasonable terms; (3) provide Duquesne's service area with an economic development program aimed at meeting a critical regional need to attract new business and encourage the expansion of existing businesses; and (4) provide additional affirmative benefits stemming from the unopposed settlement.

1. Maintaining Duquesne as a Pittsburgh-based Public Utility

Duquesne has a 125-year history with the Pittsburgh region and has been an important part of the Pittsburgh economy through the rise and eventual decline of the steel industry. The importance of Duquesne and its operations to the Pittsburgh region cannot be overstated. At a time when fewer corporations are available to address the community's needs, Duquesne has stepped up its commitment. Duquesne has established itself as one of the leading companies in the region in proactively dealing with important social and human services and economic development issues. Duquesne's dollars, its people and its energy truly go to serving Pittsburgh and its surrounding communities.

Over the past several years, Duquesne has implemented a "Back to Basics" strategy to reduce business risk and to focus its capital and management resources on its core electric business. Duquesne's customers have benefited through infrastructure investments and improved reliability. However, it also limited DLH's prospects for earnings growth and put pressure on the ability to pay out future dividends, two factors that are integral to publically listed market utility valuations. At the same time, the repeal of the Public Utility Holding Company Act in 2005 has opened the door to accelerated consolidation within the electric utility industry, and equity analyst reports began identifying Duquesne as an acquisition target due to its relatively small size and projected financial performance. These events heightened Duquesne's

and its senior management's trepidation for its future as a Pittsburgh based and operated public utility. The decline in DLH's stock price over the first half of 2006 in relation to the underlying value of the shares was of particular concern, and made the company a more likely acquisition target.

The market for Duquesne's stock clearly had a very negative outlook with approximately 12.7% of DLH's stock being sold "short," as of June 30, 2006, indicating that many investors expected a further decline in the stock price. As stated by Mr. Joseph Sauvage of Lehman Brothers in his rebuttal testimony in this proceeding, the percentage of DQE's outstanding shares sold "short" substantially exceeded the utility average of 2.7%. DLC St. No. 3R, p. 6. The prospect of a dividend reduction was particularly troubling, because a DLH dividend cut would almost certainly have led to a substantial decline in the DLH stock price, which would have increased its cost of equity and could have increased its existing vulnerability as a takeover target for other regional operating companies. As referenced in the Morgan K. O'Brien's Direct Testimony, a February 14, 2006 JP Morgan analysis, which stated that DLH may be a perceived as an acquisition target, but noted that DLH's current price level of \$17.51 made such an acquisition unlikely. DLC St. No. 1, pp. 11-12. However, between the time of the JP Morgan analysis and announcement of the merger, DLH's stock price had declined to \$15.67/share and given the short position, looked as if it would decline further. Any additional downward movement on Duquesne's stock price would have only further increased the likelihood of Duquesne being acquired by another utility.

As a result, Duquesne concluded that it should consider aligning with a solid strategic partner like the Macquarie Consortium, to secure its financial future while at the same time preserving its position as a Pittsburgh-based public utility. While this transaction does not fit the

mold of the typical horizontal and/or strategic merger, past mergers often have presented the opportunity for significant “synergy” savings, and the parties to those proceedings have requested that significant amounts of these potential savings be allocated to customers. However, synergy savings come at a substantial cost. Specifically, in merger proceedings that involve two operating utilities, synergy savings are based on the efficiencies to be realized by the consolidation of two companies. These “efficiencies” typically result in a significant loss of jobs, the replacement and/or relocation of senior management and the acquired company being subsumed into the larger holding company corporate structure of a multi-state utility with a resulting loss of local connection to the service territory.

This Merger secures Duquesne’s position as the locally operated electric distribution company for the Pittsburgh region, the value of which cannot be understated and without question provides Duquesne, its customers and the communities it serves with a substantial affirmative benefit. If Duquesne were to be acquired by another multi-state operating utility, the adverse consequences to the Pittsburgh region would likely be profound, including reduced employment opportunities at every level, from entry level (call center, administrative services) positions all the way up to senior management. Further, the loss of a locally based electric utility would likely result in reducing the leadership available to guide local non-profit organizations important to the region’s quality of life as well as the loss of the company’s leadership position in regional economic development. Therefore, Duquesne’s unprecedented commitment in the Settlement to not move its corporate headquarters from Pittsburgh without prior Commission approval, is a substantial affirmative benefit. (Settlement Paragraph 10.C.1.)

2. Improved Access to Capital Markets

Absent approval of the proposed transaction, it is not clear that DLH and Duquesne can

continue to raise equity on reasonable terms given the business risks facing Duquesne which are detailed above. This transaction will provide DLH and Duquesne with a stable equity base provided by a group of investors who are actively looking for opportunities to invest additional equity in infrastructure. The Macquarie Consortium is comprised of a group of investment funds that seeks long term investments for their investor base, which consists largely of pension funds that have a requirement for assets that match their long-term liabilities. These investments are judged based upon their ability to produce long-term cash flows coincident with the life of the assets to be constructed, and not based primarily on quarterly or annual earnings estimates. This stable equity base coupled with the Macquarie Consortium's access to global debt markets will significantly improve Duquesne's ability to fund further capital expenditures. This is clearly an affirmative benefit from the transaction.

Duquesne has historically been able to access capital markets to finance capital projects, but this access is no longer assured. In today's consolidating utility industry, Duquesne is rapidly moving from a mid-sized regional utility to a smaller local utility. Absent action, this reality would adversely affect its ability to access capital markets on reasonable terms. Absent approval of the proposed transaction, Duquesne's cost of capital will clearly increase to the detriment of customers. As detailed in the rebuttal testimony of Joseph G. Sauvage, the cost of capital for companies the size of Duquesne clearly includes a small company premium. DLC St. No. 3R, pp. 10-12. The cost of this premium would inevitably result in higher rates to customers.

This transaction, among other things, is designed to improve Duquesne's access to capital, and the results already are apparent. As an example, following the announcement of the Merger Agreement, two members of the Macquarie Consortium invested \$141 million in newly

issued DLH equity, to provide interim financing capital needs.

3. Economic Development Program

The rising cost of electricity and the volatility of the wholesale energy markets significantly impact the economic viability of Southwestern Pennsylvania. This is particularly true as Duquesne's retail competition transition period has concluded and its commercial and industrial customers need to acquire their generation in the competitive markets. While the vast majority of Pennsylvania's electric utilities remain under transition period rate caps, Duquesne's commercial and industrial customers find themselves seeking generation service in a competitive market place with escalating wholesale prices. During Pennsylvania's continued transition to competitive retail markets, it is imperative for the region that Duquesne have the ability to offer competitively priced electricity prices to encourage existing manufacturers and to attract new industries to the service area.

To this end, Duquesne, with the financial support of members of the Macquarie Consortium, will establish an economic development program to attract and support expanding Pennsylvania industrial employers. The framework of this economic development plan is as follows:

- Duquesne will establish a competitively neutral Economic Development Program to attract and support expanding Pennsylvania industrial employers by offering a flat 50 MW block (7 days by 24 hours) of energy consumed at the new or expanded facility at a discount up to \$3 per MWh below market for three years to commercial/industrial customers on Schedules HVPS and L that intend to add at least 10 MW of new or expanding load and create two new full time employment positions per MW of new load.

- Duquesne will also consider applications for funding for new or expanded load under Rate GL or, for customers on schedules HVPS and L that do not meet the above two (2) criteria, if the applicant demonstrates that the new or expanded load, while less than 10 MW, has other significant benefits, such as increasing off-peak power that could be utilized to a greater extent than on peak power, or providing attractive or improved load factor or power factor, or offers significant new employment.
- The program will continue until March 1, 2013.
- To accomplish competitive neutrality, Duquesne will not condition the discount upon the customer's obtaining energy under the POLR service or purchase of energy from an affiliate of Duquesne and Duquesne will provide written notice to each grant applicant that the discount is not conditioned on the purchase of energy from Duquesne or its affiliates, and that eligible customers may obtain 100% of their generation supply from Electric Generation Suppliers ("EGSs") not affiliated with Duquesne.

Settlement Paragraph 10.G.2.

This program will serve as a competitively neutral means to provide long-term price offerings to new industrial customers and existing customers significantly expanding their load. These customers will be able to obtain price offerings for a portion of their load requirements at a discount to the prices available in the volatile wholesale market regardless of who they select as their electric generation supplier. The establishment of such a program will enable Pennsylvania to compete with neighboring states that currently are able to avail themselves of opportunities to enhance their economic competitiveness through access to economical energy

resources.

4. Rates and Service

In addition to the items detailed above, the proposed Merger, as amended by the Settlement, provides rate protection and ensures the continued provision of high quality service, as:

- Duquesne will not file a proposed general increase in distribution rates that would become effective after full suspension prior to January 1, 2010, unless there are substantial changes in regulation or federal tax rates or policy. (Settlement Paragraph 10.B.1.)
- All aspects of the acquisition premium and transaction costs will be excluded from future distribution and transmission rates. (Settlement Paragraph 10.B.2.)
- Duquesne commits to provide annual reports to the Commission over the next three years regarding the status of all commitments under the Settlement. (Settlement Paragraph 10.E.5.)
- Duquesne agrees to adopt a Quality of Service Plan that (i) establishes metrics and reporting requirements to enable the Commission and parties to monitor Duquesne's quality of service following the Merger and (ii) provides a process to address variances from the Quality of Service Plan. (Settlement Paragraph 10.F.2.)
- Duquesne commits to its current planned funding levels of its infrastructure improvement plan. (Settlement Paragraph 10.F.1.)
- Duquesne commits to continue its substantial community commitments at least at levels substantially comparable to current levels. (Settlement Paragraph 10.H.1.)
- Duquesne commits to retain its headquarters and all of its corporate functions in

Pittsburgh and commits not to move its headquarters outside the service territory without prior Commission approval. (Settlement Paragraph 10.C.1.)

- The Settlement avoids the additional expenditure of time and funds that would be required to litigate this matter before the Commission.

5. Penn Estates Public Interest Considerations

As specifically set forth in the Joint Petition for Settlement, the parties took into account the issues raised by the Commission in *Penn Estates* which identified specific public interest issues to be examined in transactions involving financial buyers. The Application, as supplemented by the terms of the Settlement, address all of the public interest considerations for the Commission. In particular, the record in this proceeding demonstrates that the Macquarie Consortium are investors that seek out infrastructure assets that provide stable returns over a long period of time, including stable utility systems that are managed by a locally based, highly competent, management team and are subject to reasonable and fair regulation. Duquesne fits this model and as set forth in the Application and Settlement, Duquesne will continue to be locally managed and operated, maintain the high quality of service to its customers via the Service Quality Plan and maintain the community contact and support that have come to be expected by the City of Pittsburgh and the surrounding communities. As a demonstration of this commitment, DQE and Duquesne have agreed on the Settlement to the unprecedented provision that Duquesne's corporate headquarters will not be moved out of the service territory without prior Commission approval.

The Application and Joint Petition for Settlement and Duquesne's testimony demonstrate that the Macquarie Consortium is an infrastructure investor that seeks to acquire quality well-performing businesses with strong management teams that are likely to continue to perform at

high levels for the long-term horizons over which they seek to invest. The Macquarie Consortium is a group of financially secure infrastructure fund investors, with their primary source of funds comprised of institutional pension and retirement equity investors. The Macquarie Group, which manages funds accounting for approximately 64.3% of the equity in the Macquarie Consortium, has since the inception of the its infrastructure funds in 1996, it has invested in approximately 100 infrastructure and infrastructure-like assets and of these, it has sold only 10 of these investments. This provides proof of a very different type of business model from a typical "private equity fund" that in general seeks to achieve its return by improving business processes and selling the business for profit in a short time period.

Instead, the Macquarie Consortium seeks to invest in quality well managed infrastructure businesses like Duquesne and then to support them for the long-term. The Macquarie Consortium does not intend to have its other businesses provide ongoing services to Duquesne but instead plans to rely on Duquesne's highly competent management team, and let them run the business and obtain outside services as they are needed from those persons best qualified to provide those services. If in the future employees at other utilities or entities managed by the investors in the Macquarie Consortium could provide valuable assistance to Duquesne, Duquesne's senior management team will have access to these employees and in such instances where there will be costs incurred by Duquesne, appropriate filings will be made concerning the provision of such services and costs will be properly allocated.

Finally, the Settlement provides for transparency and financial protections. Specifically, Duquesne will provide annual reports filed with the Securities and Exchange Commission and will be provided to the OTS, OCA and OSBA. (Settlement Paragraph 10.E.4.) Also, Duquesne has agreed to continue to have outstanding separately issued debt held by investors not affiliated

with Duquesne or its affiliates, unless the Commission authorizes to the contrary. (Settlement Paragraph 10.E.6.) It has agreed that its long term debt ratio as a percent of total capitalization shall not exceed 60% absent approval from the Commission and to notify the Commission of its intention to declare a special cash dividend to DLH, at least 30 days before declaring the dividend. (Settlement Paragraphs 10.E.8. and 9.)

6. Competitive Markets

The Merger and Settlement also ensure that the transaction does not adversely impact the existing successful competitive retail energy market in Duquesne's service territory. The Merger and the Settlement showcase that Duquesne will continue its market leading support of the development of competitive retail markets as further evidenced by Duquesne's agreement to conduct an assessment to identify and quantify any costs for services and functions provided to non-regulated affiliates. Also, the Merger will provide for the establishment of an Economic Development Program, described previously, which will benefit eligible industrial customers without regard to the identity of their energy provider.

II. CONCLUSION.

The Settlement was achieved after considerable investigation of Duquesne's existing and future operations and the terms of the proposed transaction, through both informal and formal discovery, and submission of direct, rebuttal and surrebuttal testimony by a number of the Parties in this proceeding. In addition, the Parties undertook numerous discussions and negotiations as to service quality, corporate governance and other matters that would be in the public interest. The Settlement, if approved by Administrative Law Judge Robert P. Meehan (the "ALJ") and the Commission will reduce the amount of expense and effort that will be required by the Parties and the Commission to bring this matter to a conclusion. The Parties and the Commission will be

able to avoid the substantial effort and expense that would be incurred in continuing to litigate this proceeding, including preparing for and participating in hearings, preparation of briefs, reply briefs, exceptions, replies to exceptions and possible appellate litigation. Duquesne, Network, DLH and DQE fully support this Settlement and respectfully request that the ALJ and the Commission expeditiously review and approve the Settlement in its entirety.

Respectfully submitted,



Michael W. Gang
Andrew S. Tubbs
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-612-6026
717-612-6057
Fax: 717-731-1985
E-mail: mgang@postschell.com
atubbs@postschell.com

David B. MacGregor
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1000
Fax: 215-320-4879
E-mail: dmacgregor@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: February 9, 2007

Attorneys for
Duquesne Light Company
Duquesne Light Holdings
DQE Communications Network Services LLC
DQE Holdings LLC

ATTACHMENT B

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light	:	
Company for a Certificate of Public	:	Docket No. A-110150F0035
Convenience Under Section 1102(a)(3)	:	
of the Public Utility Code Approving	:	
the Acquisition of Duquesne Light	:	
Holdings, Inc. by Merger	:	
Application of DQE Communications	:	
Network Services LLC for a Certificate	:	Docket No. A-311233F0002
of Public Convenience Under Section	:	
1102(a)(3) of the Public Utility Code	:	
Approving the Acquisition of Duquesne	:	
Light Holdings, Inc. by Merger	:	

**OFFICE OF TRIAL STAFF
STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT**

TO ADMINISTRATIVE LAW JUDGE ROBERT P. MEEHAN:

The Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission, ("Commission") by and through its Senior Prosecutor Charles Daniel Shields, Prosecutor Robert V. Eckenrod and Chief Prosecutor Johnnie E. Simms, hereby respectfully submits that approval of the terms and conditions of the foregoing Joint Petition for Settlement ("Settlement") is in the public interest.

1. All the instant active parties to this proceeding participated in the settlement discussions and as result have either agreed upon the terms embodied in the

foregoing Settlement or, in the case of Citizen Power Inc., have agreed not to oppose its approval by the Commission.

2. The Office of Trial Staff's general prosecutorial authority and duties are prescribed in Section 306 of the Public Utility Code, 66 Pa.C.S. §306.¹ Consistent with such statutory grant of authority, OTS has vigorously represented the public interest at all time during this proceeding.

3. Prior to agreeing to the instant Settlement, OTS (1) conducted a thorough review of the Applications and supporting information, discovery responses, submitted testimony and exhibits of the parties; (2) contributed to the forthright discussions amongst the parties during the protracted and intricate settlement discussions, and (3) ensured that the OTS concerns regarding necessary conditions for Commission approval of the merger applications were expressly addressed in the Settlement.

4. OTS contends that this Settlement demonstrates the substantial acknowledgments made by the Applicants and other parties that the provided terms and

¹ And specifically, 66 Pa.C.S. §306(b)(1), that provides:

(1) The Office of Trial Staff shall be responsible for and shall assist in the development of, challenge of and representation on the record of all matters in the public interest in all commission proceedings except those involving transportation, safety, eminent domain, siting, service issues having no impact on rates and ability to pay, provided that the Director of Trial Staff may petition the commission or may be directed by the commission to intervene to protect the public interest in any proceeding involving transportation, safety, eminent domain, siting, service issues having no impact on rates and ability to pay. To assist in carrying out his powers and duties under this section, the Director of Trial Staff shall supervise the activities of the Office of Trial Staff in all commission proceedings in which he participates. If the Director of Trial Staff is of the opinion that the initiation of a proceeding is necessary to protect the public interest, he shall request that the commission initiate the appropriate proceeding. When he participates in a commission proceeding, it shall be the duty and responsibility of the Director of Trial Staff to prosecute in that proceeding.

conditions should be effectuated in order to ensure that the acquisition (the subject of the instant Applications) can be determined to be in the public interest.

5. OTS produced and distributed its Prehearing Conference Memorandum and actively participated in the Prehearing Conference conducted by Administrative Law Judge Robert P. Meehan ("ALJ Meehan") on November 28, 2006. As such, OTS is a recognized active party to this application proceeding.

6. On December 21, 2006, OTS distributed the prepared Direct Testimony & Exhibit of OTS Expert Witnesses Kevan Deardorff to ALJ Meehan and the other active parties. OTS Statement No. 1 and OTS Exhibit No. 1.

7. On January 23, 2007, OTS distributed to the ALJ and active parties the Surrebuttal Testimony of OTS Expert Witnesses Kevan Deardorff, identified as OTS Statement No. 1-SR.² Both sets of OTS testimony have been offered into the record by stipulation without objection by any other party and are referred to herein.

8. During the course of this lengthy proceeding, numerous settlement discussions were held between and among the parties. As a result of those discussions, an agreement in principle was reached in the days preceding the scheduled evidentiary hearings. That agreement is embodied in the foregoing Settlement and attachments.

² In this OTS Surrebuttal Testimony, Mr. Deardorff points out that Duquesne Witness Leslie's rebuttal testimony addressed the eight conditions that Mr. Deardorff recommended in his direct testimony be placed upon any granting of the certificates of public convenience in the event the Commission considers approving the present acquisition by merger applications. OTS St. 1-SR, pp. 1-2; Duquesne St. 2R, pp. 10-12 and OTS St. 1, pp. 7-9. Mr. Deardorff also referenced the fact that of those eight conditions, Mr. Leslie on behalf of Duquesne accepted six of his recommended conditions, modified one condition and outright rejected the remaining condition. OTS St. 1-SR, pp. 1-2; Duquesne St. 2R, pp. 10-12 and OTS St. 1, pp. 7-9.

9. OTS considers Commission approval of the terms and conditions of the Settlement to have the same effect as full and complete litigation and further recognizes that final resolution of this proceeding by approval of the Settlement shall represent approval of the underlying acquisitions by merger.

10. OTS agrees that the foregoing terms and conditions of the Settlement render its approval to be in the public interest for a number of reasons, including the fact that the eight conditions identified in the distributed OTS Direct and Surrebuttal Testimonies for any Commission granting of the merger applications are, with certain essentially minor negotiated modifications, embodied in the instant Settlement, as follows:³

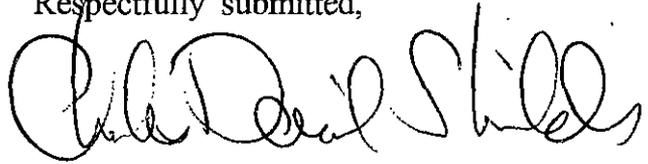
- a. Conditions A & E of Conditions A-H (the eight conditions) recommended in the OTS Direct Testimony that relate to OTS concerns that Duquesne not be entitled to claim or receive a higher cost of capital for ratemaking purposes as a result of a credit rating downgrade caused by the merger are addressed in the Settlement at II. Terms and Conditions, B. Rate Issues, Paragraph 3. b.
- b. Condition B of Conditions A-H (the eight conditions) recommended in the OTS Direct Testimony that relate to OTS concerns that Duquesne not guarantee the debt or credit instruments of DLH or any affiliate not regulated by the Commission; mortgage utility assets on behalf of DLJ or such affiliates; or loan them money or otherwise extend credit are addressed in the Settlement at II. Terms and Conditions, E. Corporate Structure Protections, Financial Conditions and Governance, Paragraph 1.
- c. Conditions C, D, F, G & H of Conditions A-H (the eight conditions) recommended in the OTS Direct Testimony that relate to other "ring fencing" issues of concern to OTS such as maintaining separate debt, prior notification to

³ Many of these conditions concern the need to ensure that adequate financial safeguards or "ring fencing" exist to insulate the credit risk of Duquesne Light from the risks of affiliate issuers within the proposed new corporate structure. Stated another way, if Duquesne Light is properly "ring fenced", the merger would have no impact on its credit rating and thus no impact on its cost of capital.

the Commission of any intention to declare any special cash dividend and allowing adequate access to corporate records are addressed at length in the Settlement at II. Terms and Conditions, E. Corporate Structure Protections, Financial Conditions and Governance, Paragraphs 2-9.⁴

The Office of Trial Staff has been thoroughly involved in the instant acquisition by merger proceeding. OTS reiterates that it fully supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judge Robert P. Meehan recommend, and the Commission subsequently approve, without modification, the proposed Settlement as set forth in the foregoing Joint Petition.

Respectfully submitted,



Charles Daniel Shields
Senior Prosecutor

Robert V. Eckenrod
Prosecutor

Johnnie E. Simms
Chief Prosecutor

Office of Trial Staff
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
(717) 787-1976

Dated: February 8, 2007

⁴ The one difference being that the presently agreed upon percentage identified in the Settlement to limit Duquesne's long term debt ratio as a percent of total capitalization is 60% rather than the 55% recommended in the OTS testimony. OTS St. 1, p. 8. Settlement at II. Terms and Conditions, E. Corporate Structure Protections, Financial Conditions and Governance, Paragraph 8.

ATTACHMENT C

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company for a	:	
Certificate of Public Convenience Under	:	
Section 1102(a)(3) of the Public Utility Code	:	A-110150F0035
Approving the Acquisition of Duquesne Light	:	
Holdings, Inc., by Merger	:	
	:	
Application of DQE Communications	:	
Network Services LLC for a Certificate of	:	
Public Convenience Under Section 1102(a)(3)	:	A-311233F0002
of the Public Utility Code Approving the	:	
Acquisition of Duquesne Light Holdings, Inc.,	:	
by Merger	:	

STATEMENT OF THE OFFICE OF CONSUMER
ADVOCATE IN SUPPORT OF THE JOINT
PETITION FOR SETTLEMENT

The Office of Consumer Advocate (OCA), a signatory party to the Joint Petition for Settlement (Settlement) in the above-captioned proceeding, respectfully requests that the terms and conditions of the Settlement be approved by the Administrative Law Judge and the Pennsylvania Public Utility Commission (Commission). The Settlement resolves the issues raised by the OCA regarding the proposed merger of Duquesne Light Company (Duquesne or Company). Accordingly, the OCA submits that the proposed settlement is in the public interest and in the interests of Duquesne's ratepayers.

1. INTRODUCTION

On September 6, 2006, Duquesne Light Company (Duquesne) and DQE Communications Network Services LLC (Network) collectively (Applicants) filed this Application. Applicants seek Commission approval for the transfer of control of their parent company, Duquesne Light Holdings, Inc., (DLH) to DQE Holdings LLC (DQE LLC). DQE LLC is a wholly owned subsidiary of the Macquarie Consortium (Macquarie), which is an entity comprised of six separate investment funds.

The Application provides that Macquarie, through DQE LLC, will acquire all of the outstanding stock of DLH for \$20 per share. DQE LLC also owns another Pennsylvania corporation, DQE Merger Sub, Inc. DQE LLC will cause DLH and DQE Merger Sub, Inc., to merge, with DLH remaining as the surviving corporation. The effect of this transaction is that DQE LLC's members, Macquarie, will then privately control the only asset left under DQE LLC – DLH, and thereby DQE LLC will control Duquesne.

On October 2, 2006, the OCA filed its Notice of Intervention and Protest in this matter, and the Office of Small Business Advocate (OSBA) filed its Notice of Intervention and Protest. The Office of Trial Staff filed a Notice of Appearance in this matter. Numerous other parties also filed Protests and/or Petitions to Intervene in this matter, including: the International Brotherhood of Electrical Workers; the Community Action Association of Pennsylvania; the Retail Energy Supply Association; Duquesne Industrial Intervenors; Dominion Retail Inc.; Citizen Power Inc.; Strategic Energy LLC; and the Pennsylvania Large Energy Users Coalition.

Administrative Law Judge Robert P. Meehan (ALJ Meehan) was assigned to this proceeding. ALJ Meehan held a Prehearing Conference on November 28, 2006. At that time the

procedural schedule for this matter, including evidentiary hearings to be held in Harrisburg on January 30, 31 and February 1, 2007, was finalized.

Throughout the course of this proceeding, the OCA engaged in extensive formal and informal discovery to thoroughly investigate all aspects of the Company's proposed merger. Pursuant to the procedural schedule adopted in the case, the OCA submitted the Direct Testimony of its expert witnesses Barbara Alexander and Matt Kahal¹ on December 21, 2006, and submitted the Surrebuttal Testimony of Ms. Alexander and Mr. Kahal on January 23, 2007.

The Company initiated settlement discussions with the parties, and the parties continued settlement discussions through the end of December, 2006 and into the last week of January 2007, when the parties agreed to the terms and conditions reflected in the instant Settlement. Prior to the start of evidentiary hearings, the presiding ALJ was notified that the parties had reached a settlement, and the hearings were subsequently cancelled.

As noted above and discussed further below, the OCA submits that the proposed Settlement is in the public interest and in the interest of Duquesne's ratepayers. The OCA submits that the Settlement should be approved. Set forth below, the OCA will discuss several of the key provisions of the Settlement that are of particular importance to the OCA.

II. SETTLEMENT PROVISIONS

A. Rate Issues

The OCA provided testimony that certain conditions should be imposed on the Applicants, if the Commission approved this application, to ensure that this merger would provide substantial, affirmative benefits to customers. One of these conditions as testified to by

¹ Ms. Alexander is a Consumer Affairs Consultant who has been involved in the implementation of retail electric and natural gas competition for many years in numerous states. Ms. Alexander has testified as an expert witness on numerous occasions in several states, specializing in service quality, reliability and universal service issues. Mr. Kahal has testified in numerous regulatory proceedings as an independent consulting economist, specializing in energy economics, public utility regulation and financial analysis.

OCA witness Matthew Kahal, was that a distribution rate cap was needed for a reasonable period of time. OCA St. No. 1 at 26-27. The Settlement provides that Duquesne will not file for a distribution rate case that would become effective prior to January 1, 2010. See Joint Petition (J.P.) at II (B)(1). This provision ensures that Duquesne's ratepayers will enjoy a period of distribution rate stability for approximately two and a half (2 ½) years.

Mr. Kahal also testified that recovery from customers of transaction costs and other costs arising from the merger should be prohibited both in regards to FERC transmission and PAPUC distribution rates. OCA St. No. 1 at 34. The Settlement provides that acquisition premiums, transaction costs and other expenses incurred by the Company in order to consummate this merger will be excluded from future distribution and transmission rates. See J.P. at II (B)(2). This provision ensures that the new owners of Duquesne, and not its ratepayers, will be responsible for the costs incurred to achieve this merger.

Mr. Kahal further testified that, with regards to cost of capital, customers should be protected against any increase in the DLC cost of capital as a result of the merger. OCA St. No. 1 at 31-32. Mr. Kahal explained that these conditions were necessary to protect both DLC's customers and its financial integrity while avoiding cross subsidization. OCA St. No. 1 at 31, 33. The Settlement provides that for at least five (5) years after this merger closes, Duquesne will not claim any increase in its cost of capital as a result of this transaction. See J.P. at II (B)(3), (3)(b). In addition, Duquesne will maintain its capital structure in such a manner as to avoid unnecessary financial risk, and Duquesne will maintain a capital structure for ratemaking purposes that is reasonable and in the best interests of its ratepayers. See J.P. at II (B)(3)(a); II (E)(8). These provisions ensure that Duquesne's ratepayers will not be subject to higher financial costs as a result of this merger.

The OCA submits that the substantial rate issues accompanying this proposed merger as identified by its expert witness, Mr. Kahal, have been adequately addressed in the Settlement. Accordingly, the OCA submits that these provisions of the Settlement are in the public interest and in the interest of Duquesne's ratepayers.

B. Community Commitment

The OCA's investigation and analysis of this proposed merger has included the possible impacts on the Pittsburgh area if Duquesne's corporate headquarters were moved out of the region. As a result of this investigation, Mr. Kahal testified that should the Commission approve this application, a condition should be imposed that DLH maintain its corporate headquarters in Pittsburgh. OCA St. No. 1 at 35. The Settlement provides that Duquesne's corporate headquarters will remain in Pittsburgh. See J.P. at II (C)(1). The Settlement further provides that Duquesne will continue its current levels of corporate contributions to the community, including its shareholder matching funds for the Dollar Energy Fund for at least the next five (5) years. See J.P. at II (H)(1). These provisions ensure that Duquesne will remain a Pittsburgh-based company, and that its level of community involvement will continue to be robust.

The Settlement also provides that Duquesne will establish an Economic Development Program to attract and support expanding Pennsylvania industrial employers by offering discounted energy rates, for a period of three (3) years, to qualified commercial or industrial customers. See J.P. at II (H)(2). This provision is intended to stimulate the local economy by providing incentives for new and/or expanding business to increase their presence in western Pennsylvania. The OCA did not provide any testimony as to the Economic Development Program, but expects that this program will provide significant benefits for the

region. The OCA anticipates that other parties will elaborate on the benefits of this provision in their respective Statements in Support.

C. Corporate Structure, Governance and Transparency Issues

Mr. Kahal testified that as originally proposed, the Board of Directors was limited to the members of DQE LLC, and did not include the CEO of Duquesne Light Holdings (DLH). Mr. Kahal went on to testify that broadening the Board of Directors' membership could result in a Board more responsive to the interests of the Commission and the local community. OCA St. No. 1 at 29. The Settlement provides that the CEO of DLH will be a member of the Board of Directors, and the CEO will also chair a management committee which will contain representatives of both the senior management team and the Macquarie Consortium. See J.P. at II (E)(10). This provision ensures that Duquesne's local leadership and its management team will have representation on and direct input to the Board of Directors.

Mr. Kahal also testified that DLC should not serve as a source of credit for any affiliates, thereby preventing cross subsidization. OCA St. No. 1 at 31, 33. The Settlement provides that Duquesne will not guarantee, provide collateral, or otherwise loan or extend credit for periods in excess of one (1) year to any affiliates of the Company unless such an arrangement has been approved by the Commission after a finding that such an arrangement would be a benefit to ratepayers. See J.P. at II (E)(1). This provision will ensure the necessary Commission oversight of any transactions that may occur between Duquesne and its new or existing affiliated companies.

Mr. Kahal further testified that a system of progress reporting should accompany the merger given the lack of experience in the U.S. with private equity funds taking over large utility companies and the proposed changes in financial structure. OCA St. No. 1 at 34-35. The

Settlement provides that Duquesne will provide the Commission and the statutory parties (OTS, OSBA and OCA) with access to the books, records, Securities and Exchange Commission filings, staff, officers and presentations to financial analysts for the utility and its subsidiaries. See J.P. at II (D)(1); II (E)(4), (7). Beginning in March 2008 and continuing through March 2010, Duquesne will also provide an annual report to the Commission as to the status of all commitments made in this Settlement. See J.P. at II (E)(5). These provisions are intended to ensure that the Commission and the statutory parties will retain reasonable access to the books and records of Duquesne and its subsidiaries under the new corporate structure.

The OCA submits that the corporate structure, governance and transparency issues that were identified by the OCA and its expert witness have been adequately resolved through the Settlement. As such, the OCA submits that these provisions of the Settlement are in the public interest and in the interest of Duquesne's ratepayers.

D. Reliability And Customer Service

The Settlement provides that Duquesne will continue its current planned funding levels for its infrastructure improvement plan. See J.P. at II (F)(1). OCA witness Barbara Alexander testified that along with the continued infrastructure improvements, a Service Quality Assurance Plan would enhance the likelihood that promises made by the Applicants will be achieved and that customers will receive benefits from this transaction in the form of continued high service quality. OCA St. No. 2 at 20-21. The Settlement provides that Duquesne will adhere to a Quality of Service Plan, as set out in its entirety in the Settlement, during the period from January 1, 2007 through December 31, 2009, which establishes certain metrics and reporting requirements to allow for the monitoring of the quality of service provided by Duquesne and to identify any significant changes to Duquesne's reliability and service levels.

The Settlement provides that Duquesne will provide an annual report to the Commission and the statutory parties on its level of performance for the metrics contained in the Quality of Service Plan. Duquesne will provide additional information to the Commission and the statutory parties as to any metrics that fall below the agreed-to standards and will also submit the Company's plan to address such variances. In addition, the Settlement provides for a streamlined process to obtain Commission review of the Company's quality of service, should such a proceeding become necessary.

Nothing in the Settlement, however, is meant to preclude the Commission from exercising its full powers to assure that Duquesne's quality of service and reliability remains consistent with its duty to provide safe and reasonable service to its ratepayers. See J.P. at II (F)(2), (3). These provisions will ensure that Duquesne's historic reliability and customer service metrics will remain at high levels.

E. Universal Service

Ms. Alexander testified that, if the Commission approves this application, certain conditions should be imposed to ensure that low-income customers can continue to obtain and maintain essential electricity services. OCA St. No. 2 at 32-33. The Settlement provides that Duquesne will create a collaborative (Universal Service Collaborative) of local representatives of low-income groups, community-based organizations (CBOs) and the OCA to consider universal service programs so as to enhance Duquesne's programs within current funding levels, including discussing increasing the involvement of the Community Action Association of Pennsylvania (CAAP) and the PA Weatherization Task Force in referrals to and from Duquesne for its Low Income Usage Reduction Program (LIURP or Smart Comfort). The collaborative will meet no less than once per year and will include a representative of CAAP and a representative from the

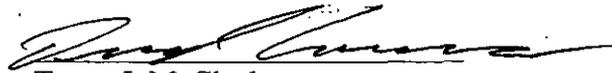
Pennsylvania Weatherization Network Providers. See J.P. at II (G)(2). The Universal Service Collaborative will provide low-income advocates and other stakeholders with the opportunity to share ideas and initiatives directly with the Company personnel responsible for the planning and implementation of Duquesne's universal service programs.

The Settlement also provides that Duquesne will continue to fund its Customer Assistance Program (CAP) consistent with its need analysis, will continue to fund LIURP consistent with the settlement reached in Docket No. R-00061346, will continue its Stay Warm Program, and will expand the number of customers served under its Smart Comfort program. See J.P. at II (G)(1), (3). The Settlement further provides that Duquesne will make all reasonable efforts to completely expend the total LIURP funding that is available each calendar year. See J.P. at II (G)(5). These provisions will ensure that Duquesne's universal service programs will continue to be adequately funded, and that such programs are available to Duquesne's ratepayers.

III. CONCLUSION

The Joint Petition for Settlement resolves the issues raised and investigated by the OCA in this matter. The Settlement represents a reasonable resolution of the issues and claims arising in this proceeding, as it provides customer benefits and reduces the expense involved with continued litigation of this matter. For the foregoing reasons, the Office of Consumer Advocate submits that the proposed Joint Petition for Settlement is in the public interest and in the best interests of Duquesne's customers.

Respectfully Submitted,



Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org
Jennedy E. Santolla
PA Attorney I.D. # 203098
E-mail: JSantolla@paoca.org
Darryl Lawrence
PA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org
Assistant Consumer Advocates

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: February 8, 2007

92543.doc

ATTACHMENT D

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company for a :
Certificate of Public Convenience under :
Section 1102(a)(3) of the Public Utility Code :
Approving the Acquisition of Duquesne Light : **Docket No. A-110150F0035**
Holdings, Inc. by Merger :

Application of DQE Communications Network :
Services LLC for a Certificate of Public :
Convenience under Section 1102(a)(3) of the :
Public Utility Code Approving the Acquisition of : **Docket No. A-311233F0002**
Duquesne Light Holdings, Inc. by Merger :

**STATEMENT OF THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention and Protest at Docket No. A-311233F0002, against the September 6, 2006, Application of Duquesne Light Company (“DLC”) and DQE Communications Network Services LLC (“DQE Communications”) (collectively, the “Joint Applicants”), seeking approval under Chapters 11 and 28 of the Public Utility Code, 66 Pa. C.S. Ch. 11 and 28, of the acquisition of their parent company—Duquesne Light Holdings, Inc. (“DLH”)—by the Macquarie Consortium. The OSBA filed testimony; actively participated in the negotiations that

led to the Joint Petition for Settlement of the issues in this case ("Settlement"); and is a signatory to the Settlement which was filed on February 9, 2007. The OSBA submits this statement in support of the Settlement.

Settlement

The Settlement sets forth a list of issues that were resolved through the negotiation process, including the resolution of issues which were of particular significance to the OSBA when it concluded that the Settlement was in the best interests of DLC's small business customers.

The Joint Applicants are seeking certificates of public convenience under Section 1102 of the Public Utility Code, 66 Pa.C.S. § 1102. Section 1103(a) of the Public Utility Code, 66 Pa. C.S. § 1103(a), allows the Commission to issue a certificate only upon a finding or determination that the granting of such certificate is "necessary or proper for the service, accommodation, convenience, or safety of the public." Satisfying this standard requires the Commission to find that a proposed acquisition would "affirmatively promote the 'service, accommodation, convenience, or safety of the public' in some substantial way." City of York v. Pennsylvania Public Utility Commission, 449 Pa. 136, 141, 295 A.2d 825, 828 (Pa. 1972). In addition, Section 1103(a) allows the Commission to impose upon its issuance of a certificate of public convenience "such conditions as it may deem to be just and reasonable."

The Application raised several issues of concern identified by the OSBA in its Protest, including:

- a. Whether transferring ownership of a Pennsylvania electric distribution company to an overseas entity would be consistent with Commission policy;
- b. Whether ratepayers would benefit from the predicted enhanced access to capital; and
- c. Whether ownership by an equity fund would result in the excessive diversion of DLC revenues to investors.

These issues have been resolved to the satisfaction of the OSBA because of the following provision in the Settlement:

- d. DLC has agreed that there will be no general increase in distribution rates prior to January 1, 2010 (Settlement at II.B.1.). In effect, this stayout will be financed, at least in part, by the predicted reduction in the cost of capital;
- e. DLC will not claim an increase in the cost of capital as a result of the merger transaction for a period of 5 years (Settlement at II.B.3). In effect, if the merger does not produce the predicted reduction in the cost of capital, ratepayers will be protected for at least five years;

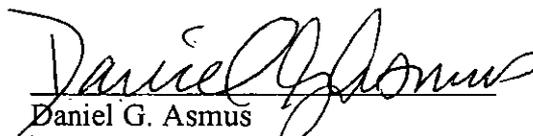
- f. DLC commits to continuing the funding levels for its current planned infrastructure improvement plan for 2006 and 2007 (Settlement at II.F.1.). This commitment will reduce the risk that funds needed to operate the DLC system will be diverted to the Macquarie Consortium; and
- g. DLC has agreed to a Quality of Service Plan for the years 2007 through 2009, including specific distribution reliability metrics to be achieved, reporting requirements, and remedies for failure to achieve (Settlement at II.F.2-3.). This provision will also reduce the risk that funds needed to operate the DLC system will be diverted to the Macquarie Consortium.

The OSBA understands that Section IV. "Public Interest Reasons In Support of Settlement" includes summaries of the Settlement provisions which do not supersede or modify the specific provisions of the settlement. These public interest findings are intended to satisfy the Commission's findings which it considered in *Application of Penn Estates Utilities, Inc.*, Docket No. A-210072F0003 (Order entered October 2, 2006). To the extent that such summaries are based upon or supported by the testimony and/or exhibits filed by the Applicants or other parties, the OSBA does not necessarily join in such summaries.

Conclusion

For the reasons set forth in the Settlement, as well as the additional factors that are enumerated in this statement, the OSBA believes that the Settlement is in the public interest. Therefore, the OSBA supports the proposed Joint Petition for Settlement and respectfully requests that the ALJ and the Commission approve the Settlement in its entirety.

Respectfully submitted,


Daniel G. Asmus
Assistant Small Business Advocate
Attorney ID No. 83789

For:

William R. Lloyd, Jr.
Small Business Advocate
Attorney ID No 16452

Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101
(717) 783-2525

Date: February 9, 2007

ATTACHMENT E

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. by Merger	:	:	Docket No. A-110150F0035
Application of DQE Communications Network Services LLC for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. by Merger	:	:	Docket No. A-311233F0002

**RETAIL ENERGY SUPPLY ASSOCIATION
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT**

The Retail Energy Supply Association ("RESA")¹ supports the Joint Petition for Settlement ("Settlement") in this matter and requests that it be approved as in the public interest. RESA is hopeful that the merger of the Duquesne Light companies and the Macquarie Consortium in accordance with the Settlement will advance retail competition for the benefit of the public, customers and retail suppliers in the service territory of Duquesne Light Company ("Duquesne"). RESA submits that the Settlement represents a

¹ RESA is a trade association composed of a broad range of retail energy providers, including electric suppliers licensed in Pennsylvania, that support competitive retail markets and together seek to develop a more competitive power industry. RESA's members include Consolidated Edison Solutions, Inc; Direct Energy Services, LLC; Hess Corporation; Reliant Energy Retail Services, LLC; Semptra Energy Solutions; Strategic Energy, LLC; SUEZ Energy Resources NA, Inc; and US Energy Savings Corp. The opinions expressed in this filing may not represent the view of all members of RESA.

comprehensive resolution by the full range of the parties in this proceeding of all issues pertaining to the above-captioned Application in a manner that supports issuance of the requested certificates of public convenience.

The Commission may issue a certificate of public convenience if it finds that the certificate is "necessary or proper for the service, accommodation, convenience, or safety of the public."² Section 1103 of the Public Utility Code requires a showing that a merger as proposed here will affirmatively benefit the public and specifically will "affirmatively promote the 'service, accommodation, convenience or safety of the public' in some substantial way."³ When evaluating the acquisition of the assets and securities of public utilities, as proposed here, the Commission is also required to consider whether the proposed transaction is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail electricity customers in Pennsylvania from obtaining the benefits of a properly functioning and workable competitive retail electricity market.⁴

RESA submits that the comprehensive Settlement – in particular from RESA's perspective, the competitively neutral Economic Development Program, the revisions to the corporate cost allocations among Duquesne and its affiliate companies, and the identification and quantification by an independent consultant of the cost of service and business functions provided to Duquesne's electric generation supplier ("EGS") affiliate

² 66 Pa. C.S. § 1103.

³ *City of York v. Pa. P.U.C.*, 295 A.2d 825, 828 (Pa. 1972).

⁴ 66 Pa. C.S. § 2811(e); *Joint Application of PECO Energy Company and Public Service Electric and Gas Company for Approval of the Merger of Public Service Enterprise Group, Inc. with and into Exelon Corporation*, Docket No. A-110550F0160, Opinion and Order entered Feb. 1, 2006, at 8-10.

Duquesne Light Energy – satisfies the legal requirements for Commission approval and the issuance of the necessary certificates of public convenience. Accordingly, RESA supports approval of the Settlement:

Respectfully submitted,



Daniel Clearfield, Esq.
Kevin J. Moody, Esq.
Wolf, Block, Schorr and Solis-Cohen LLP
213 Market Street, 9th Fl.
Harrisburg, PA 17108-0865
(717) 237-7160

Dated: February 9, 2007

Attorneys for Retail Energy Supply
Association

ATTACHMENT F



Direct Energy

Mike Gang, Esq.
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601

February 8, 2007

RE: Joint Petition for Settlement
Docket Nos. A-110150F0035 and A-311233F3002

Dear Mr. Gang:

Direct Energy Services, LLC supports the proposed settlement and, as set forth in Section II.J.2.e. of the Joint Petition for Settlement, agrees that the settlement resolves all issues relating to inter company cost allocations in this proceeding and in Duquesne's filing to establish POLR IV rates effective January 1, 2008.

Regards,

A handwritten signature in cursive script that reads "Frank Lacey".

Frank Lacey
Director, Government Regulatory Affairs
Frank.lacey@directenergy.com

263 Tresser Blvd,
One Stamford Plaza, 8th Floor
Stamford, CT 06901

tel. 724.941.2149
www.directenergy.com
A Centrica business

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. by Merger	:	:	Docket No. A-110150F0035
	:	:	
Application of DQE Communications Network Services LLC for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. by Merger	:	:	Docket No. A-311233F0002
	:	:	

JOINT STATEMENT OF SUPPORT FOR THE SETTLEMENT

TO ADMINISTRATIVE LAW JUDGE ROBERT P. MEEHAN:

This Joint Statement of Support for the Settlement (“Joint Statement”) is submitted by the following parties in the above-captioned proceeding: Duquesne Light Company (“Duquesne”), DQE Communications Network Services LLC (“Network”),¹ the Office of Trial Staff (“OTS”), the Office of Consumer Advocate (“OCA”), the International Brotherhood of Electrical Workers, Local 29 (“IBEW 29”), Community Action Association of Pennsylvania (“CAAP”), Dominion Retail, Inc. (“Dominion”), Duquesne Industrial Intervenors (“DII”), Retail Energy Supply Association (“RESA”),² Strategic Energy, LLC (“Strategic”) and Pennsylvania Large Energy

¹ DQE Communications Network Services LLC (“Network”) holds a Certificate of Public Convenience to provide service as a Competitive Access Provider throughout the Commonwealth of Pennsylvania. Network and its parents are wholly owned by DLH. *Application of DQE Communications Network Services LLC for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania*, Docket No. A-311233 (Order entered on November 23, 2004).

² RESA is joining in this Joint Statement on its own behalf, and on behalf of two of its members, Direct Energy Services, LLC and Hess Corporation.

Users Coalition ("PALEUC") (hereinafter collectively referred to as "Joint Petitioners").³ The Joint Petitioners file this Joint Statement pursuant to Administrative Law Judge Robert P. Meehan's February 27, 2007 Interim Order #2, wherein ALJ Meehan reopened the record at the above-referenced dockets to provide the Joint Petitioners with the opportunity to submit supplemental statements in support to address the February 20, 2007 Commonwealth Court of Pennsylvania decision in *Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission*, No. 255 C.D., 2007 Pa. Commw. LEXIS 63 ("*Verizon*"), where the Court reversed the Commission's approval of the *Verizon Communications, Inc., and MCI Inc., merger* ("Verizon/MCI Merger") and remanded the proceeding to the Commission.

The Joint Petitioners, as signatories to the February 9, 2007 Joint Petition for Settlement ("Settlement") in this proceeding, continue to support the Settlement as filed as it resolves all issues associated with the Application and is in the best interest of Duquesne and its customers, and therefore, is in the public interest.⁴ In addition, the Merger, as amended by the Settlement, meets the affirmative benefits test as set forth in *City of York v. Pa. P.U.C.*, 449 Pa. 136, 295 A.2d 825 (1972) and *Verizon* and also satisfies the ten specific public interest findings that the Commission considered in its Order in *Application of Penn Estates Utilities, Inc., Docket No. A-210072F0003, et al.*, Order entered October 2, 2006. Further, the Joint Petitioners assert that the Merger and Settlement in this proceeding present different circumstances from the Verizon/MCI Merger Order. Therefore, in support of the Settlement the Joint Petitioners submit this Joint Statement in Support to describe these different circumstances and to explain the numerous reasons that support that conclusion.

³ Citizen Power Inc. ("Citizen Power") has authorized Joint Petitioners to state that Citizen Power does not oppose this Settlement and has submitted a letter of non-opposition to the Commission.

⁴ The Office of Small Business Advocate ("OSBA") is a signatory to the February 9, 2007, Joint Petition and will be submitting a separate Statement in Support of the Settlement.

I. THE SETTLEMENT IS IN THE PUBLIC INTEREST

The Settlement in this proceeding presents the Commission with a markedly different set of circumstances from the Verizon/MCI Merger reviewed by the Court in *Verizon* and therefore does not raise the same set of concerns cited by the Court. A significant difference, as noted above, is the pending Application was amicably resolved via Settlement among all parties which comprehensively resolves the divergent interests of the parties in this proceeding and all issues pertaining to the Application raised by the parties. Another difference is that Duquesne's distribution and transmission rates remain under traditional cost of service regulation while Verizon is no longer subject to such regulation of its rates, which are now governed by Chapter 30 of the Public Utility Code. 66 Pa.C.S. §§ 3011 et seq. The Settlement reached by the Joint Petitioners directly addresses a number of the perceived infirmities noted by the Court in *Verizon* relative to the Verizon/MCI Merger.⁵ Nevertheless, the Merger and Settlement present in this proceeding provides the following terms and conditions which are substantially different than the matters addressed by the Commonwealth Court in *Verizon*:

- **Rates:** Duquesne will not file a proposed general increase in distribution rates under Section 1308(d) of the Public Utility Code that would become effective after full suspension prior to January 1, 2010, and Duquesne agrees that there shall be no general increase in distribution rates prior to January 1, 2010, unless there are substantial changes in regulation or federal tax rates or policy. There was no provision to cap non competitive small customer rates in *Verizon*. 2007 Pa. Commw. LEXIS 63, at *22-23.

⁵ It is not the intention of this Joint Statement to take a position on the *Verizon* Commonwealth Court order.

(Slip Opinion, pp 16-17). Under Chapter 30, Verizon would be permitted to raise non-competitive rates each year by the rate of inflation minus 0.5%, notwithstanding any impact of merger savings on the Company's cost of providing service;

- **Quality of Service Plan:** Duquesne agreed to a Quality of Service Plan ("Service Plan") during the period from January 1, 2007 through December 31, 2009. The Service Plan establishes the metrics and reporting requirements to allow for the monitoring of the quality of reliability and customer call center service provided by Duquesne and to identify any significant changes to Duquesne's reliability and service levels. There was no provision for a Quality Service Plan in *Verizon*. 2007 Pa. Commw. LEXIS 63, at *22-23. (Slip Opinion, pp. 16-17);
- **Corporate Presence:** As a mid-sized electric utility Duquesne is a potential target for acquisition by larger out-of-state regional electric utilities. The Settlement provides that Duquesne's headquarters and corporate functions will remain in Pittsburgh including an unprecedented condition that Duquesne will not move its headquarters outside its service territory without Commission approval. In addition, Duquesne's commitment to the Pittsburgh region includes retaining the services of its current CEO and ensuring that the CEO serves on the Board of Directors. The Commonwealth Court concluded that there was no likelihood of Verizon's Pennsylvania corporate presence (including the headquarters of its Pennsylvania operating subsidiary) changing absent the merger. 2007 Pa. Commw. LEXIS 63, at *38. (Slip Opinion, pp. 27-28);
- **Merger Savings.** All efficiencies and benefits garnered in the Merger and Settlement will flow through to Duquesne's customers due to its continued operations under the

traditional cost-based rate base/rate of return paradigm for its distribution and transmission rates. Such benefits will be reflected to reduce distribution and transmission revenue requirements in future rates. Further, the agreement that there will be no general increase in distribution rates for three years also provides assurance that customers will receive such benefits. The Commonwealth Court expressed concerns as to how customers benefit from merger savings when rates are not set on a cost of service basis. 2007 Pa. Commw. LEXIS 63, at *35-36. (Slip Opinion, p. 24);

- **Competitive Markets:** While this proceeding does not involve the merger of two competitors, Duquesne has committed to address a number of measures to enhance the competitive retail electric market in its service territory. Duquesne has agreed to an independent third party analysis to identify and quantify any costs for services and functions provided to its non-regulated affiliates. The Court in *Verizon* questioned the lack of Pennsylvania specific analysis addressing the impact of the Verizon/MCI Merger on Pennsylvania's competitive markets and consumers. 2007 Pa. Commw. LEXIS 63 at *35-36. (Slip Opinion at 25).

The Joint Petitioners' ability to avoid protracted litigation by amicably resolving all issues in this proceeding has resulted in a number of additional affirmative benefits that were not addressed in the Verizon/MCI Merger Order:

- **Economic Development:** The Application and Settlement establish a competitively neutral economic development program to retain and attract large industrial customers;
- **Community Commitment:** Duquesne has agreed to maintain at least current levels of corporate community commitments for five (5) years;

- **Universal Service Programs:** Duquesne has agreed to increase the number of LIURP customers to be served and make other improvements and operational changes to its LIURP program and planning process for universal service programs, including an agreement to form a collaborative regarding its universal service programs.
- **Affiliate Agreements:** Duquesne has committed to seek Commission approval of all new or amended agreements;
- **Access to Capital:** The Merger will provide Duquesne with a stable equity base and is designed to improve Duquesne's access to capital and provide capital at lower costs over time.
- **Access to Records:** Duquesne Light Holdings will provide the Commission, OTS, OCA, and OSBA parties with reasonable access to the books and records, officials and staff of Duquesne Light Holdings and its affiliates. Duquesne will provide the Commission, OTS, OCA and OSBA with annual reports filed with the Securities and Exchange Commission.
- **Infrastructure Program:** Duquesne committed to complete its Infrastructure Improvement Program.
- **Financial Conditions:** Duquesne and Macquarie agreed to several important financial conditions such as a 60% limit on long-term debt and prior notification to the Commission of any special dividends.
- **Workforce Retention:** Duquesne has acknowledged that the transaction with Macquarie is not an "extraordinary circumstance" under the terms of its collective bargaining

agreement with IBEW Local 29. As such, the employment guarantee provisions in the collective bargaining agreement will continue to apply, ensuring the stability of Duquesne's workforce.

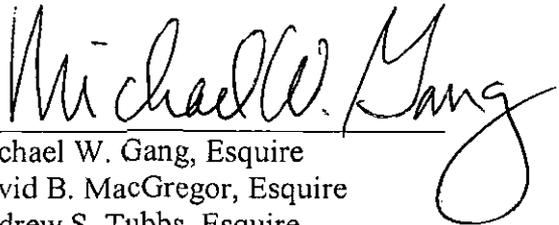
II. CONCLUSION

The Joint Petitioners submit that the Settlement and transaction between Duquesne Light Holdings and the Macquarie Consortium is in the public interest and should be approved by the Commission. Such approval will: (1) ensure Duquesne's customers receive nearly a three year period of distribution rate stability; (2) maintain Duquesne, its management and its dedicated employees in Pittsburgh; (3) maintain Duquesne's present high level of community involvement; (4) provide Duquesne's service area with an economic development program aimed at meeting a critical regional need to attract new business and encourage the expansion of existing businesses; (5) establish a Service Quality Plan to allow for the monitoring of quality of service provided by Duquesne and to identify if there are changes to Duquesne's reliability and service levels; (6) ensure that the transaction does not adversely impact and potentially improves the existing successful competitive retail energy market in Duquesne's service territory via conditions relative to cost allocations and a review of cost of service and business functions by and among Duquesne and its affiliates; and (7) provide many other improvements and commitments noted above or in the Settlement.

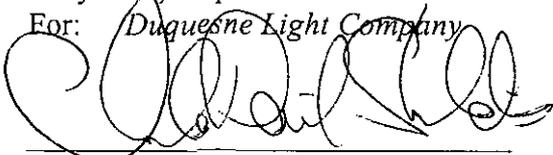
The Settlement was achieved after considerable investigation of Duquesne's existing and future operations and the terms of the proposed transaction, through both informal and formal discovery, and submission of direct, rebuttal and surrebuttal testimony by a number of the Joint Petitioners in this proceeding. In addition, the Joint Petitioners undertook numerous discussions and negotiations as to service quality, corporate governance and other matters that would be in

the public interest. For the reasons set forth in the Settlement, the Statements of Support filed by each of the Joint Petitioners and the additional factors set forth in this Joint Statement, the Joint Petitioners continue to support the Settlement as filed as it is in the public interest and continues to meet the substantial affirmative benefit test established in *City of York* as applied by the Commonwealth Court in *Verizon*. The Joint Petitioners respectfully request that the Administrative Law Judge and the Commission expeditiously review and approve the Settlement in its entirety without modification.

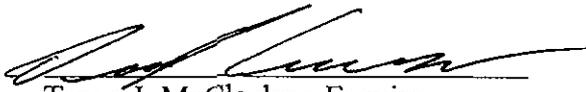
Respectfully submitted,



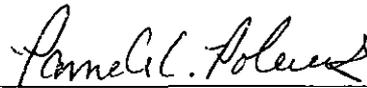
Michael W. Gang, Esquire
David B. MacGregor, Esquire
Andrew S. Tubbs, Esquire
Gary Jack, Esquire
For: *Duquesne Light Company*



Charles Daniel Shields, Esquire
Robert V. Eckenrod, Esquire
For: *Office of Trial Staff*



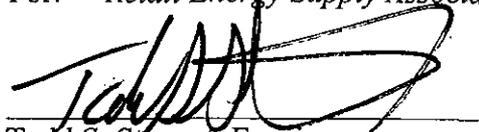
Tanya J. McCloskey, Esquire
Darryl Lawrence, Esquire
Jennedy E. Santolla, Esquire
For: *Office of Consumer Advocate*



Pamela C. Polacek, Esquire
Adam L. Benshoff, Esquire
For: *Duquesne Industrial Intervenors*



Daniel Clearfield, Esquire
Kevin J. Moody, Esquire
For: *Retail Energy Supply Association*



Todd S. Stewart, Esquire
For: *Dominion Retail, Inc.*

Date: 3/6/07



Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*

Joseph L. Vullo, Esquire

For: *Community Action Association of Pennsylvania*

Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*

Theodore H. Jobes, Esquire

Steven S. Goldenberg, Esquire

Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: *Mar. 6, 2007*

Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*



Joseph L. Vallo, Esquire

For: *Community Action Association of Pennsylvania*

Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*

Theodore H. Jobes, Esquire

Steven S. Goldenberg, Esquire

Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: _____

Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*

Joseph L. Vullo, Esquire

For: *Community Action Association of Pennsylvania*



Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*

Theodore H. Jobes, Esquire

Steven S. Goldenberg, Esquire

Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: March 6, 2007

Scott J. Rubin, Esquire

For: *International Brotherhood of Electrical Workers Local 29*

Joseph L. Vullo, Esquire

For: *Community Action Association of Pennsylvania*

Erin Creahan, Esquire

Julie Colletti, Esquire

For: *Strategic Energy, LLC*

Theodore H. Jobes, Esquire

Steven S. Goldenberg, Esquire

Paul F. Forshay, Esquire

For: *Pennsylvania Large Energy Users Coalition*

Date: 3/6/07

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company for a :
Certificate of Public Convenience under :
Section 1102(a)(3) of the Public Utility Code :
Approving the Acquisition of Duquesne Light : Docket No. A-110150F0035
Holdings, Inc. by Merger :

Application of DQE Communications Network :
Services LLC for a Certificate of Public :
Convenience under Section 1102(a)(3) of the :
Public Utility Code Approving the Acquisition of : Docket No. A-311233F0002
Duquesne Light Holdings, Inc. by Merger :

**SUPPLEMENTAL STATEMENT OF
THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate ("OSBA") filed a Notice of Intervention and Protest at Docket No. A-311233F0002, against the September 6, 2006, Application of Duquesne Light Company ("DLC") and DQE Communications Network Services LLC ("DQE Communications") (collectively, the "Joint Applicants"), seeking approval under Chapters 11 and 28 of the Public Utility Code, 66 Pa. C.S. Ch. 11 and 28, of the acquisition of their parent company—Duquesne Light Holdings, Inc. ("DLH")—by the Macquarie Consortium

("Macquarie"). The OSBA filed testimony; actively participated in the negotiations that led to the Joint Petition for Settlement of the issues in this case ("Settlement"); and is a signatory to the Settlement which was filed on February 9, 2007.

On February 27, 2007, ALJ Robert P. Meehan issued Interim Order #2 in this matter, noting the fact that on February 20, 2007, the Commonwealth Court of Pennsylvania issued a decision in *Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission*, No. 255 C.D. 2006, 2007 Pa. Commw. LEXIS 63 ("Verizon/MCI Decision"), which reversed the Commission's approval of a merger between Verizon Communications, Inc. ("Verizon") and MCI, Inc. ("MCI"), and remanded the proceeding to the Commission. In ALJ Meehan's opinion, the Joint Petitioners should be given the opportunity to provide either a Joint Statement in Support or Supplemental Statements in Support of the Settlement in light of the Verizon/MCI Decision prior to his issuance of an Initial Decision and the entry of an Order in the instant case. Consequently, ALJ Meehan has reopened the record at this docket number to permit the filing of an additional Joint Statement in Support or Supplemental Statements in Support, to be filed with the Commission and served upon the ALJ, the parties, and Citizen Power on or before Friday, March 9, 2007.

Pursuant to the Interim Order #2 issued on February 27, 2007, the OSBA is filing this Supplemental Statement in Support, addressing the Joint Petition for Settlement in light of the Verizon/MCI Decision.

The Verizon/MCI Decision

In the Verizon/MCI Decision, the Commission adopted the decision of the ALJ approving the merger between Verizon and MCI, finding that the two companies had established that the merger was in the public interest. While acknowledging that there must be an affirmative showing that the merger was in the public interest under the standard established in *City of York v. Pennsylvania Public Utility Commission*, 449 Pa. 136, 295 A.2d 825 (Pa. 1972) (proponents of the merger must “demonstrate that the merger will affirmatively promote the ‘service, accommodation, convenience, or safety of the public’ in some substantial way.” *Id.* at 828), the Commission gave its own interpretation of that standard. The Commission stated that “[t]he public interest standard is a broad standard that encompasses examining whether, for example, the ‘merger will have an anti-competitive effect or will impair the technical, managerial or financial fitness’ of the jurisdictional utilities affected to continue to provide adequate . . . services to Pennsylvania customers at just and reasonable rates.” Verizon/MCI Decision at 15. (citations omitted).

The Commission went on to find that the Verizon/MCI merger was in the public interest because there had been approvals of the merger at the federal level, stating that “a comprehensive and Pennsylvania-specific analysis of the competitive effects of the merger was not appropriate in light of the [Department of Justice] Consent Decree . . . “

where “the United States Department of Justice Antitrust Division (DOJ) and the Federal Communications [sic] (FCC) have also thoroughly investigated the merger and have imposed conditions to ameliorate the anticompetitive effects of the merger.”

Verizon/MCI Decision at 16.

The Commonwealth Court disagreed with the Commission, stating that “even if the conditions imposed by those federal agencies ameliorated all of the anti-competitive effects in Pennsylvania, it would only establish that the merger was not detrimental to the public, not that needed substantial benefits were present to justify the merger.”

Verizon/MCI Decision at 25. The Court reviewed the Commission’s determination that there were three positive benefits that would accrue to the public from the merger, finding that (1) the claimed access by Verizon to MCI’s Internet system resulting from the merger, which would purportedly support a broad array of services and applications, in effect promised nothing new; (2) continuing Verizon’s presence in Pennsylvania was going to occur regardless of the merger; and (3) the ostensibly enhanced deployment of broadband services was not quantified in such a way as to demonstrate that the merger provided a benefit to the public. Verizon/MCI Decision at 27-28.

In the Verizon/MCI Decision, the Commonwealth Court has upheld the standard set forth in *City of York*, with the additional proviso that any purported affirmative benefits which would justify approval of a merger must be demonstrably quantified, not just stated in an illusory fashion. (*See Verizon/MCI Decision at 28, FN 28*). Given this precedent, the OSBA, in the analysis below, will attempt to show which of the purported

benefits of the DLC/Macquarie merger meet the standard set forth in *City of York* as interpreted in the Verizon/MCI Decision, thereby justifying approval of the merger by the Commission.

Settlement

The Settlement sets forth a list of issues that were resolved through the negotiation process, including the resolution of issues which were of particular significance to the OSBA when it concluded that the Settlement was in the best interests of DLC's small business customers. Those issues are addressed in the OSBA's initial Statement in Support of the Joint Petition for Settlement and will be incorporated herein by reference.

As implied by the Verizon/MCI Decision, conditions in a merger settlement do not qualify as affirmative benefits if they simply attempt to avoid or mitigate problems, or potential problems, that would be unlikely to arise in the absence of the merger. Therefore, conditions may be essential to concluding that a merger settlement is in the public interest but may not constitute affirmative benefits. Conditions qualify as affirmative benefits only if they provide something to the public that is positive, that is not illusory, and that would not have been provided without the merger. The following specific issues and the resolution thereof demonstrate affirmative benefits that the OSBA believes will accrue to the public as a result of the DLC/Macquarie merger, if approved:

- a. DLC has agreed that there will be no general increase in distribution rates prior to January 1, 2010. In effect, this stayout will be financed, at least in part, by the predicted reduction in the cost of capital. That predicted

reduction in the cost of capital would also benefit ratepayers when distribution rates are set in subsequent cases;

- b. With respect to universal service, DLC has agreed to convene a collaborative (“Universal Service Collaborative”) of local representatives of low income groups, community based organizations (“CBOs”) and the Office of Consumer Advocate (“OCA”) to consider universal service programs so as to enhance DLC’s programs within current funding levels. The collaborative will meet no less than once a year and will include representatives from CAAP and Pennsylvania weatherization network providers.
- c. DLC has committed to increase the number of customers served under its Smart Comfort program from 2, 250 to 3,000 customers per year from 2007 through 2009, except for 2008, where DLC will commit to serving 4,000 customers.
- d. DLC will establish a competitively neutral Economic Development Program to attract and support expanding Pennsylvania industrial employers by offering a flat 50MW block of energy consumed at a new or expanded facility at a discount of up to \$3 per MWh below market for three years for commercial/ industrial customers who meet specific criteria for creating new or expanding load and create two new full time employment positions per MW of new load. DLC will also consider applications from customers that do not meet the specific criteria, if the applicant can demonstrate that the new or expanded load has significant benefits, such as increasing off-peak power that could be utilized to a greater extent than on-peak power, or providing attractive or improved load factor or power factor, or offers significant new employment. The program will be funded solely from shareholder funds, and will not be conditioned upon receiving generation supply from DLC or its affiliates.
- e. DLH will pay for the cost of an independent consultant to identify and quantify the cost of services and business functions provided to Duquesne Light Energy (“DLE”) and to provide for the remittance of compensation for the cost of these services and business functions rendered to DLE or any other affiliated electric generation supplier (“EGS”) by any affiliated Duquesne companies (including DLC) except for power procurement services. DLE will remit the appropriate compensation for such services

and business functions to the companies providing these services and business functions.

Conclusion

For the reasons set forth in the Settlement, as well as the additional factors that are enumerated in this statement, the OSBA believes that the Settlement is in the public interest and that the proposed merger provides affirmative benefits which satisfy the standard under *City of York* as interpreted by the Commonwealth Court in the Verizon/MCI Decision. Therefore, the OSBA reiterates its support for the proposed Joint Petition for Settlement and respectfully requests that the ALJ and the Commission approve the Settlement in its entirety.

Respectfully submitted,



Daniel G. Asmus
Assistant Small Business Advocate
Attorney ID No. 83789

For:

William R. Lloyd, Jr.
Small Business Advocate
Attorney ID No 16452

Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101
(717) 783-2525

Date: March 8, 2007

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company for :
a Certificate of Public Convenience Under : Docket No. A-110150F0035
Section 1102(a)(3) of the Public Utility Code :
Approving the Acquisition of Duquesne Light :
Holdings, Inc. By Merger :

Application of DQE Communications Network :
Services LLC for a Certificate of Public :
Convenience Under Section 1102(a)(3) of the : Docket No. A-311233F0002
Public Utility Code Approving the Acquisition :
of Duquesne Light Holdings, Inc. By Merger :

Certificate of Service

I certify that I am serving two copies of the Supplemental Statement in Support of the Joint Petition for Settlement, on behalf of the Office of Small Business Advocate by e-mail and first-class mail (unless otherwise noted) upon the persons addressed below:

Hon. Robert Meehan
Administrative Law Judge
Pennsylvania Public Utility Commission
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
(412) 565-3550
(412) 565-5692 (fax)
rmeehan@state.pa.us

Johnnie E. Simms, Esquire
Charles Daniel Shields, Esquire
Robert V. Eckenrod, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-4886
(717) 772-2677 (fax)
Josimms@state.pa.us
chshields@state.pa.us
roeckenrod@state.pa.us
(E-mail and Hand Delivery)

Theodore H. Jobes, Esquire
Fox Rothschild LOLP
2000 Market Street - 10th Floor
Philadelphia, PA 19103
(215) 299-2000
(215) 299-2150 (fax)
tjobes@foxrothschild.com

Paul F. Forshay, Esquire
Sutherland Asbill & Brennan LLP
1275 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 383-0100
(202) 637-3593 (fax)
paul.forshay@sablaw.com

Tanya McCloskey, Esquire
Darryl Lawrence, Esquire
Office of Consumer Advocate
555 Walnut Street 5th FL Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
(717) 783-7152
tmccloskey@paoca.org
dlawrence@paoca.org
(E-mail and Hand Delivery)

Michael W. Gang, Esquire
Andrew S. Tubbs, Esquire
Post & Schell PC
17 North Second Street - 12th Floor
Harrisburg, PA 17101-1601
(717) 731-1970
(717) 731-1985 (fax)
mgang@postschell.com
atubbs@postschell.com

Scott J. Rubin, Esquire
3 Lost Creek Drive
Selinsgrove, PA 17870
(570) 743-2233
(570) 743-8145 (fax)
scott@publicutilityhome.com

Todd S. Stewart, Esquire
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
Harrisburg, PA 17101
(717) 236-1300
(717) 236-4841 (fax)
tsstewart@hmsk-law.com

Jennedy E. Santolla, Esquire
jsantolla@paoca.org
(E-mail only)

Matt Kahal
mkahal@exeterassociates.com
(E-mail only)

Joseph L. Vullo, Esquire
1460 Wyoming Avenue
Forty Fort, PA 18704
(570) 288-0700
(570) 288-4598 (fax)
jlvullo@aol.com

jmccaffrey@stinsonmoheck.com
(E-mail only)

jcoletti@sel.com
(E-mail only)

Jessica Horner
jhorner@paoca.org
(E-mail only)

Daniel Clearfield, Esquire
Kevin J. Moody, Esquire
Wolf Block Schorr and Solis-Cohen LLP
213 Market St., 9th Floor
P. O. Box 865
Harrisburg, PA 17108-0865
(717) 237-7160
(717) 237-7161
dclearfield@wolfblock.com
kmoody@wolfblock.com

Pamela C. Polacek, Esquire
Adam L. Benshoff, Esquire
McNees Wallace & Nurick LLC
P. O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(717) 237-5300 (fax)
ppolacek@mwn.com
abenshoff@mwn.com

David Hughes
Citizen Power
hughes@citizenpower.com
(E-mail only)

Eugene M. Brady
Community Action Association of PA
P. O. Box 1127
Wilkes-Barre, PA 18703-1127
(570) 826-0510
(570) 829-1665 (fax)
hebegebe@sunlink.net

feichenmiller@duqlight.com
(E-mail only)

gjack@duqlight.com
(E-mail only)

hreiter@stinsonmoheck.com
(E-mail only)

jdibble@stinsonmoheck.com
(E-mail only)

Erin H. Creahan, Esquire
Strategic Energy, LLC
Two Gateway Center - 9th Floor
Pittsburgh, PA 15222
(412) 258-2036
(412) 394-6681 (fax)
ecreahan@strategicenergy.com

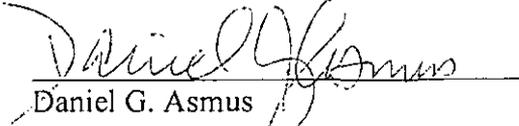
kdeardorff@state.pa.us
(E-mail only)

David MacGregor, Esquire
Post & Schell
Four Penn Center
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103
(215) 587-1197
dmacgregor@postschell.com

mgruber@state.pa.us
(E-mail only)

Rob.Kupchak@macquarie.com
(E-mail only)

sgoldenberg@foxrothschild.com
(E-mail only)


Daniel G. Asmus
Assistant Small Business Advocate
Attorney ID No. 83789

Dated: March 8, 2007

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Applications of Duquesne Light Company and :
DQE Communications Network Services LLC, :
For Certificates of Public Convenience Under :
Section 1102(a)(3) of the Public Utility Code : Docket No. A-110150F0035
Approving the Acquisition of Duquesne Light :
Holdings, Inc. by Merger :

Application of DQE Communications :
Network Services LLC for a Certificate of Public :
Convenience Under Section 1102(a)(3) of the : Docket No. A-311233F0002
Public Utility Code Approving the Acquisition of :
Duquesne Light Holdings, Inc. by Merger :

**STATEMENT OF THE
DUQUESNE INDUSTRIAL INTERVENORS
IN SUPPORT OF SETTLEMENT**

Duquesne Light Company ("Duquesne Light" or "Company"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Office of Trial Staff ("OTS"), the Duquesne Industrial Intervenors ("DII") and the other active parties in this proceeding have filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a unanimous settlement ("Settlement") to resolve all issues regarding the proposed acquisition of Duquesne Light Holdings, Inc., by the Macquarie Consortium. As set forth in more detail below, DII supports the proposed settlement as a reasonably-balanced resolution of this matter that satisfies the City of York test.

I. REASONS FOR SUPPORT OF SETTLEMENT

First, the settlement ensures that Duquesne Light will not claim the acquisition premium or transaction costs in future distribution or transmission rates. See Joint Petition, ¶ 10.B.2. This resolves any ambiguity over whether customers will face higher rates in future cases due to these potential expense claims. The settlement also contains limitations on Duquesne's capital structure and cost of capital in future proceedings (see Joint Petition, ¶ 10.B.3), which will provide some rate protection to customers in future proceedings.

Second, the settlement expands the proposed Economic Development Program to enhance the possibility that existing Rate Schedule L and HVPS customers and customers served under Rate GL may be able to take advantage of the incentive. See Joint Petition, ¶ 10.H.2. If the entire 50MW of available power is discounted by \$3/mwh, this could result in \$1.3 million in economic development incentives during each year of the program. DII applauds Duquesne Light's willingness to implement the program and urges the Company to make full use of the 50MW of available power to ensure that the potential benefit of this settlement provision is realized.

Third, the settlement implements a limited stay-out for changes to distribution rates. See Joint Petition, ¶ 10.B.1. Due to the interclass subsidies that exist in current distribution rates, a stay-out provision does not benefit all rate schedules. Duquesne Light has implemented only a limited stay-out that provides a benefit to classes that are paying below system average returns in existing distribution rates (e.g., residential customers) while not unreasonable delaying the next rate case, during which rate

schedules paying above system average returns, such as Rate Schedules GL, L and HVPS, can move closer to cost of service.

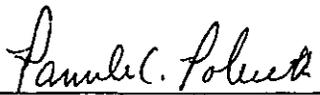
In summary, the settlement represents an appropriate resolution of this proceeding that provides public benefits in accordance with the City of York test.

II. CONCLUSION

WHEREFORE, the Duquesne Industrial Intervenors respectfully request that the Commission approve the Joint Petition for Settlement submitted in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek
Adam L. Benshoff
McNees Wallace & Nurick LLC
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: February 23, 2007

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company for a	:	
Certificate of Public Convenience Under Section	:	
1102(a)(3) of the Public Utility Code Approving	:	Docket No. A-110150F0035
the Acquisition of Duquesne Light Holdings, Inc.	:	
by Merger	:	
	:	
Application of DQE Communications Network	:	
Services LLC for a Certificate of Public	:	
Convenience Under Section 1102(a)(3) of the	:	Docket No. A-311233F0002
Public Utility Code Approving the Acquisition of	:	
Duquesne Light Holdings, Inc. by Merger	:	

**COMMUNITY ACTION ASSOCIATION OF PENNSYLVANIA'S
STATEMENT IN SUPPORT OF SETTLEMENT**

The Community Action Association of Pennsylvania (CAAP) supports the Joint Petition for Settlement.

CAAP intervened in this proceeding to address the resulting Company's universal service programs; specifically, to address funding levels for those universal service programs and to address the need to employ local community-based organizations in the development and implementation of those programs. The settlement reached by the parties addresses those concerns by ensuring continued funding for those programs and the involvement of local community-based organizations in those programs.

The settlement represents a comprehensive agreement reached by parties with various interests and will serve to demonstrate in future matters that similar parties can work together to reach a fair and just resolution.

Respectfully submitted,

S/ Joseph L. Vullo
JOSEPH L. VULLO, ESQUIRE
I.D. No. 41279
1460 Wyoming Avenue
Forty Fort, PA 18704
(570) 288-0700
email: jlvullo@bvrrlaw.com
Attorney for Community Action Association
of Pennsylvania

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

FEB 1-2 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

Application of Duquesne Light Company)
for a Certificate of Public Convenience)
Under Section 1102(a)(3) of the Public)
Utility Code Approving the Acquisition of)
Duquesne Light Holdings, Inc. by Merger)

Docket No. A-110150F0035

Application of DQE Communications)
Network Services LLC for a Certificate of)
Public Convenience Under Section)
1102(a)(3) of the Public Utility Code)
Approving the Acquisition of Duquesne)
Light Holdings, Inc. by Merger)

Docket No. A-311233F0002

TO ADMINISTRATIVE LAW JUDGE ROBERT P. MEEHAN:

PA PUC

07 FEB 20 AM 9:30

RECEIVED
OFFICE OF C.A.L.J.

**PENNSYLVANIA LARGE ENERGY USERS COALITION
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT**

The Pennsylvania Large Energy Users Coalition ("PALEUC"), a signatory party to the Joint Petition for Settlement ("Settlement") in this proceeding, respectfully requests that the Settlement's terms and conditions be approved by the Your Honor and the Pennsylvania Public Utility Commission ("Commission"). As discussed briefly below, the Settlement resolves PALEUC's concerns with the merger of Duquesne Light Company ("Duquesne") and DQE Holdings, LLC ("DQE Holdings")(collectively "Applicants") as originally proposed. Accordingly, PALEUC urges approval of the Settlement as in the public interest.

I. INTRODUCTION

By application dated September 6, 2006, Duquesne and DQE Communications Network Services LLC ("Network") requested that the Commission issue certificates of public

convenience under Section 1102(a)(3) of the Public Utility Code, 66 Pa. C.S. §1102(a)(3), approving the transfer of ownership and control of Duquesne and Network to DQE Holdings. PALEUC is an association of large end use, industrial customers that are located within Duquesne's service territory and obtain electric service from Duquesne. As the Settlement notes, PALEUC filed a protest regarding the merger application originally submitted by the Applicants in this case, and questioned whether the proposed merger "will affirmatively promote the 'service, accommodation, convenience, or safety of the public' in some substantial way" as required by *York v. Pa. P.U.C.*, 449 Pa. 136, 295 A.2d 825, 828 (1972) ("*York*"). PALEUC subsequently participated actively in the negotiations that produced the Settlement.

II. COMMENTS

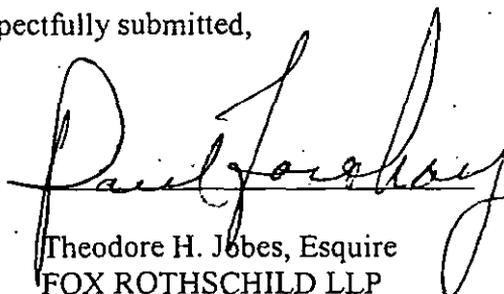
PALEUC believes that the extensive negotiations engaged in by the parties have produced a Settlement that acceptably modifies the original merger proposal to provide benefits not only to the Applicants, but to Duquesne's ratepayers and the general public, sufficient to satisfy the *York* standard. Of particular importance to PALEUC, these benefits include DLC's agreement that there will be no general increase in distribution rates prior to January 1, 2010, and a competitively neutral economic development program aimed at large commercial and industrial customers on the Duquesne system. In addition, because the parties have reached a negotiated resolution prior to the commencement of evidentiary hearings, approval of the Settlement will permit the parties to avoid the substantial investments of time and money that evidentiary hearings and the preparation of briefs would have required.

Finally, PALEUC notes that the proposed Settlement is either supported or unopposed by all active parties to this proceeding. These parties run the gamut of regulatory, rate class and energy market interests, and the absence of opposition from such a diverse array of participants

strongly suggests that the proposed Settlement satisfies the *York* standard, serves the public interest and should be adopted.

Respectfully submitted,

By:



Theodore H. Jobes, Esquire
FOX ROTHSCHILD LLP
2000 Market Street
Philadelphia, PA 19103
Phone: (215) 299-2000
Fax: (215) 299-2150
tjobes@foxrothschild.com

Steven S. Goldenberg, Esquire
FOX ROTHSCHILD LLP
Princeton Pike Corporate Center
907 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311
Phone: (609) 896-4586
Fax: (609) 896-1469
sgoldenberg@foxrothschild.com

Paul F. Forshay, Esquire
SUTHERLAND ASBILL & BRENNAN LLP
1275 Pennsylvania Avenue, NW
Washington, D.C. 20004
Phone: (202) 383-0708
Fax: (202) 637-3593
paul.forshay@sablaw.com

Attorneys for the
Pennsylvania Large Energy Users Coalition

February 12, 2007

RECEIVED

FEB 12 2007

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

Application of Duquesne Light Company : Docket Nos. A-11050F0035
for a Certificate of Public Convenience :
Approving the Acquisition of Duquesne :
Light Holdings, Inc. by Merger :

Application of DQE Communications : A-311233F002
Network Services LLC for a Certificate of :
Public Convenience Approving the :
Acquisition of Duquesne Light Holdings, :
Inc. by Merger :

STRATEGIC ENERGY, L.L.C. STATEMENT IN SUPPORT OF SETTLEMENT

Strategic Energy, L.L.C. ("Strategic") supports the proposed settlement in this matter and requests that it be approved in the public interest as set forth below:

1. Strategic intervened in this proceeding, filed testimony, and actively participated in the proceeding, as well as in the negotiations that led to the settlement in this case.

2. The settlement addresses a plethora of issues, several of which have particular interest to Strategic. The settlement avoids potentially contentious, time-consuming, and expensive litigation regarding, among other things, the potential cross-subsidization of Duquesne Light Company's ("Duquesne") retail arm, Duquesne Light Energy ("DLE"), and disputes regarding the adverse effects of the proposed merger on retail electric competition in Duquesne's service territory.

3. Strategic supports the settlement because it provides for a process for addressing these anticompetitive cross-subsidization issues that might not otherwise be available, and provides for the identification and potential mitigation of the adverse

RECEIVED
OFFICE OF C.A.L.J.
07 FEB 15 AM 11:32
PA PUC

effects of any cross-subsidization among the Duquesne companies. Throughout this proceeding, Strategic has raised the concern that DLE may have unfair competitive advantages due to direct or indirect cross-subsidies from other Duquesne companies. Strategic has been concerned that the proposed transaction could have adverse consequences for the competitive retail electric market in Duquesne's service territory due to the exacerbation or perpetuation of this improper cross-subsidization. Strategic believes that Pennsylvania utilities with affiliated competitive suppliers operating in their service territories should be subject to stricter code of conduct standards that provide for the level of functional or structural separation necessary to prevent cross subsidization and to ensure that competitive suppliers with utility affiliates operate on level playing fields in the respective utilities' service territories. In lieu of implementing stricter standards in this particular proceeding, the settlement provides another method of addressing anticompetitive cross-subsidization issues.

4. The settlement requires Duquesne Light Holdings to contract with an independent third party auditor/consultant to conduct an assessment of the services and business functions provided to DLE by its affiliates. The assessment will include an examination of the appropriate compensation for any services provided to DLE (or any other affiliated EGS) by other affiliates.

5. Upon completion of the analysis, Duquesne will compensate the appropriate Duquesne companies for the provision of these functions and services based upon the recommendations of the analysis.

6. Although Duquesne retains the ability to reject the recommendations in the analysis, Strategic and RESA reserve the right to present the independent consultant's findings to the Commission for review.

7. Strategic agrees that the proposed merger, as modified by and subject to the terms outlined in the proposed settlement – in particular Sections II.I. and II.J. – addresses and satisfies the inquiry under Section 2811(e) of the Public Utility Code that requires the Commission to consider the effects of a proposed merger on retail electric competition.

CONCLUSION

For the reasons stated above, Strategic supports the proposed settlement and requests that the Commission approve the settlement.

Respectfully submitted,



Erin H. Creahan, Esq.
Strategic Energy, L.L.C.
Two Gateway Center
Pittsburgh, PA 15222
(412) 258-2036
(412) 394-6681 (facsimile)

Dated: February 12, 2007



STINSON
MORRISON
HECKER LLP

John E. McCaffrey

(202) 728-3013

jmccaffrey@stinsonmoheck.com

www.stinsonmoheck.com

1150 18th Street N.W., Suite 800
Washington, D.C. 20036-3816

Tel (202) 785-9100

Fax (202) 785-9163

February 9, 2007

VIA OVERNIGHT MAIL

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

Re: *Application of Duquesne Light Company for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. by Merger, et al., Docket Nos. A-110150F0035, et al.*

Dear Secretary McNulty:

On behalf of Citizen Power, Inc. the undersigned hereby states that Citizen Power does not oppose the February 9, 2007 Joint Petition for Settlement filed in the above-referenced proceeding.

In accordance with the Commission's rules, enclosed are three copies of this letter, as well as an original and three copies of an appropriate certificate of service.

If there are any problems with this submission, or if you should require any further information, please contact the undersigned at the number listed above.

Respectfully yours,

STINSON MORRISON HECKER LLP

John E. McCaffrey

An attorney for Citizen Power, Inc.

KANSAS CITY
OMAHA
OVERLAND PARK
PHOENIX
ST. LOUIS
WASHINGTON, D.C.
WICHITA

cc: The Honorable Robert P. Meehan (via overnight mail) ✓
Certificate of Service (via electronic and first-class mail)

RECEIVED
FEB 12 2007

APPENDIX F

Pittsburgh Office of A.L.J.
Public Utility Commission

Act 294

Case Identification:

A-110150F0035; App. of Duquesne Light Co. for a Certificate of Public Convenience and A-311233F0002; App. of DQE Communications Network Services, LLC approving the acquisition of Duquesne Light Holding, Inc. by Merger

Initial Decision By:

ALJ Robert P. Meehan

Deadline for Return to OSA:

April 13, 2007

This decision has not been reviewed by OSA.

RECEIVED

APR 16 2007

PA PUBLIC UTILITY COMMISSION
* * * SECRETARY'S BUREAU

RECEIVED
2007 APR -3 PM 1:31
OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Spadell J. Skelton

Commissioner

4/2/07

Date

I do not want full Commission review of this decision.

Commissioner

Date

Act 294

Case Identification:

A-110150F0035; App. of Duquesne Light Co. for a Certificate of Public Convenience and A-311233F0002; App. of DQE Communications Network Services, LLC approving the acquisition of Duquesne Light Holding, Inc. by Merger

Initial Decision By:

ALJ Robert P. Meehan

Deadline for Return to OSA:

April 13, 2007

This decision has not been reviewed by OSA.

* * * * *

RECEIVED
2007 APR 16 AM 11:08
OFFICE OF SPECIAL ASSISTANTS

I do not want full Commission review of this decision.

James H. Crowley

4/16/2007

Commissioner

Date

I do not want full Commission review of this decision.

Commissioner

Date

Act 294

Case Identification:

A-110150F0035; App. of Duquesne Light Co. for a Certificate of Public Convenience and A-311233F0002; App. of DQE Communications Network Services, LLC approving the acquisition of Duquesne Light Holding, Inc. by Merger

Initial Decision By:

ALJ Robert P. Meehan

Deadline for Return to OSA:

April 13, 2007

This decision has not been reviewed by OSA.

* * * * *

RECEIVED
2007 APR 12 AM 8:06
OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

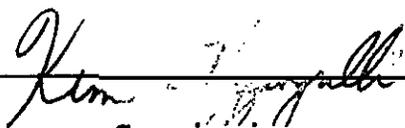
Commissioner

Date

I do not want full Commission review of this decision.

Commissioner

Date



4/10/07

Act 294

Case Identification: A-110150F0035; App. of Duquesne Light Co. for a Certificate of Public Convenience and A-311233F0002; App. of DQE Communications Network Services, LLC approving the acquisition of Duquesne Light Holding, Inc. by Merger

Initial Decision By: ALJ Robert P. Meehan

Deadline for Return to OSA: April 13, 2007

This decision has not been reviewed by OSA.

* * * * *

RECEIVED
2007 APR 13 AM 8:56
OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Terrance J. Fitzpatrick

4/3/07

Commissioner

Date

I do not want full Commission review of this decision.

~~*Terrance J. Fitzpatrick*~~

Commissioner

Date

2. Article Number



7160 3901 9843 1963 7687

3. Service Type **CERTIFIED MAIL**

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **DENNIS HEILES** B. Date of Delivery **4/2**

C. Signature **X [Signature]** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

2. Article Number



7160 3901 9843 1963 7700

3. Service Type **CERTIFIED MAIL**

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **[Signature]** B. Date of Delivery **4-2-07**

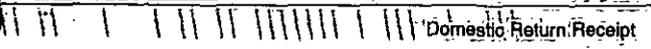
C. Signature **X [Signature]** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

PAMELA C POLACEK ESQUIRE
ADAM L BENSHOFF ESQUIRE
MCNEES WALLACE & NURICK LLC
PO BOX 1166
100 PINE STREET
HARRISBURG PA 17108-1166

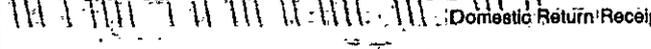
DANIEL CLEARFIELD ESQUIRE
KEVIN J MOODY ESQUIRE
WOLF BLOCK SCHORR AND SOLIS-
COHEN LLP
213 MARKET STREET 9TH FLOOR
PO BOX 865
HARRISBURG PA 17108-0865

A-110150 F0035 ID



Domestic Return Receipt

A-110150 F0035 ID



Domestic Return Receipt

2. Article Number



7160 3901 9843 1963 7694

3. Service Type **CERTIFIED MAIL**

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **DIANE SMITH** B. Date of Delivery **4/2/07**

C. Signature **X [Signature]** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

2. Article Number



7160 3901 9843 1963 7748

3. Service Type **CERTIFIED MAIL**

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **TENY CATALANO** B. Date of Delivery **4-3-07**

C. Signature **X [Signature]** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

GARY JEFFRIES ESQUIRE
DOMINION RETAIL INC
1201 PITT STREET
PITTSBURGH PA 15222-2029

DAVID B MACGREGOR ESQUIRE
POST & SCHELL PC
FOUR PENN CENTER
1600 JOHN F KENNEDY BLVD
PHILADELPHIA PA 19103-2808

A-110150 F0035 ID



Domestic Return Receipt

A-110150 F0035 ID



Domestic Return Receipt

Article Number



7160 3901 9843 1963 7816

Service Type: CERTIFIED MAIL

Restricted Delivery? (Extra Fee) Yes

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Jen Reese* B. Date of Delivery *4-20-07*

C. Signature *Jen Reese* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

JOSEPH L VULLO ESQUIRE
BURKE VULLO REILLY ROBERTS
460 WYOMING AVENUE
PORTY FORT PA 18704

A-11015



pt

2. Article Number



7160 3901 9843 1963 7755

3. Service Type: CERTIFIED MAIL

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Tameela U. Myers* B. Date of Delivery *4/20*

C. Signature *TAMEELA U. MYERS* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

STEVEN S GOLDENBERG ESQUIRE
FOX ROTHSCHILD LLP
PRINCETON PIKE CORPORATE
CENTER
997 LENOX DRIVE BLDG 3
LAWRENCEVILLE NJ 08648-2311

A-110150 F0035 ID

Domestic Return Receipt

Article Number



7160 3901 9843 1963 7885

Service Type: CERTIFIED MAIL

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *JAZBINSK* B. Date of Delivery *14 APR 2007*

C. Signature *J. Jazbinski* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

MARY A JACK ESQUIRE
JQUESNE LIGHT COMPANY
1 SEVENTH AVENUE
MAIL DROP 8-2
PITTSBURGH PA 15219

10150 F0035 ID

Domestic Return Receipt

2. Article Number



7160 3901 9843 1963 7809

3. Service Type: CERTIFIED MAIL

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Rexine McSwain* B. Date of Delivery *4-2-07*

C. Signature *Rexine McSwain* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

JOHN E MCCAFFREY ESQUIRE
HARVEY L REITER ESQUIRE
JAIME S DIBBLE ESQUIRE
STINSON MORRISON HECKER LLP
1150 18TH STREET NW SUITE 800
WASHINGTON DC 20036-3816

A-110150 F0035 ID

Domestic Return Receipt

PS

2. Article Number



7160 3901 9843 1963 7939

3. Service Type CERTIFIED MAIL

SCOTT J RUBIN ESQUIRE
3 LOST CREEK DRIVE
SELINGROVE PA 17870

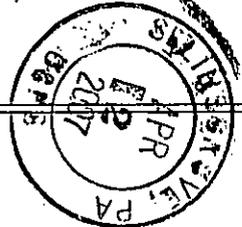
A-110150 F0035 ID

PS Form 3811, February 2003

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)	B. Date of Delivery 4-2-07
C. Signature x <i>Scott Rubin</i>	
<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	



2. Article Number



7160 3901 9843 1963 7991

3. Service Type CERTIFIED MAIL

TODD S STEWART ESQUIRE
HAWKE MCKEON SNISCAK &
KENNARD LLP
PO BOX 1778
HARRISBURG PA 17105-1778

A-110150 F0035 ID

PS

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>Kennan Perry</i>	B. Date of Delivery 4/2
C. Signature x <i>[Signature]</i>	
<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

2. Article Number



7160 3901 9843 1963 7960

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

PAUL F FORSHAY ESQUIRE
SUTHERLAND ASBILL & BRENNAN LLP
1275 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

A-110150 F0035 ID

PS Form 3811, February 2003

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>R. K. Down</i>	B. Date of Delivery
C. Signature x <i>[Signature]</i>	
<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

2. Article Number



7160 3901 9843 1963 8028

3. Service Type CERTIFIED MAIL

ERIN CREHAN ESQUIRE
ASSOCIATE COUNSEL
STRATEGIC ENERGY LLC
TWO GATEWAY CENTER 9TH FLOOR
PITTSBURGH PA 15222

A-110150 F

PS Form 3811, February 2003

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>Chris Lundis</i>	B. Date of Delivery 3/2/07
C. Signature x <i>[Signature]</i>	
<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

2. Article Number



7160 3901 9843 1963 8059

3. Service Type **CERTIFIED MAIL**

MICHAEL W GANG ESQUIRE
ANDREW S TUBBS ESQUIRE
POST & SCHELL PC
17 NORTH SECOND STREET
12TH FLOOR
HARRISBURG PA 17101-1601

P.A-110150 F0035 ID

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

J. Shover

4/3

C. Signature

J. Shover

Agent
 Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

Yes
 No

Domestic Return Receipt

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 30th day of March, 2007,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of an Initial Decision, an official Commission document entered, issued, or otherwise promulgated under date of March at Docket No.A-110150F0035 et al_ on behalf of:

TANYA J MCCLOSKEY
OFFICE OF CONSUMER ADVOCATE
5TH FLOOR FORUM PLACE
555 WALNUT STREET
HARRISBURG PA 17101-1923


Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
KEYSTONE BUILDING 2ND FLOOR
400 NORTH STREET
Harrisburg, PA 17105-3265

RECEIVED

APR - 2 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this _____ day of _____, 20__,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of an Initial Decision, an official Commission document entered, issued, or otherwise promulgated under date of March at Docket No.A-110150F0035 et al_ on behalf of:

DANIEL G ASMUS
OFFICE OF SMALL BUSINESS
ADVOCATE
SUITE 1102 COMMERCE BUILDING
300 NORTH SECOND STREET
HARRISBURG PA 17101

MAR 30 2007

Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
KEYSTONE BUILDING 2ND FLOOR
400 NORTH STREET
Harrisburg, PA 17105-3265

RECEIVED

APR - 2 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 2nd day of April, 2007

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of an Initial Decision, an official Commission document entered, issued, or otherwise promulgated under date of March at Docket No.A-110150F0035 et al_ on behalf of:

CHARLES DANIEL SHIELDS ESQUIRE
ROBERT V ECKENROD ESQUIRE
OFFICE OF TRIAL STAFF
PENNSYLVANIA PUBLIC UTILITY
COMMISSION
PO BOX 3265
HARRISBURG PA 17105-3265

DOCUMENT
FOLDER


Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
KEYSTONE BUILDING 2ND FLOOR
400 NORTH STREET
Harrisburg, PA 17105-3265

SECRETARY'S BUREAU
2007 APR -2 PM 3:07

RECEIVED

RECEIVED
07 APR 12 AM 7:34
PA PUC
OFFICE OF TRIAL STAFF