



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

IN REPLY PLEASE  
REFER TO OUR FILE

May 2, 2007

Honorable Larry Gesoff  
Office of Administrative Law Judge  
1103 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

DOCUMENT  
FOLDER

Re: Petition of Duquesne Light Company for Approval of Default  
Service Plan for the Period of January 1, 2008 Through  
December 31, 2010

Docket No. P-00072247

Dear Judge Gesoff:

Enclosed please find an original and three (3) copies of the Office of Trial Staff's  
**Statement in Support of General Stipulation.**

As evidenced by the enclosed Certificate of Service, copies are being served on all  
active parties of record.

If you have any questions, please contact me at (717) 787-1976.

Sincerely,

Charles Daniel Shields  
Senior Prosecutor  
Office of Trial Staff  
Attorney ID #29363

Enclosure  
CDS/clp

cc: Parties of Record

BTL

SECRETARY'S BUREAU  
2007 MAY -2 AM 8:33

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCUMENT  
FOLDER

Petition of Duquesne Light Company :  
for Approval of Default Service Plan : Docket No. P-00072247  
for the Period of January 1, 2008 Through :  
December 31, 2010 :

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OFFICE OF TRIAL STAFF  
STATEMENT IN SUPPORT OF  
GENERAL STIPULATION

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SECRETARY'S BUREAU

2007 MAY -2 AM 8:33

2007 MAY -2 AM 8:33

**TO ADMINISTRATIVE LAW JUDGE LARRY GESOFF:**

The Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission, ("Commission") by and through its Senior Prosecutor Charles Daniel Shields and its Chief Prosecutor Johnnie E. Simms hereby respectfully submits that the terms and conditions of the General Stipulation, admitted into the record in the instant petition proceeding as Duquesne Exhibit No. 2, represent a fair, just, reasonable and equitable balance of the interest of the parties involved and those of the Duquesne Light Company ("Duquesne" or "Company") customers. OTS is not opposed to Commission approval of the other stipulations entered into the record in this proceeding.

## **Introduction**

1. 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.<sup>1</sup> Consistent with such statutory grant of authority, OTS represented the public interest at all times during this proceeding.

2. Prior to agreeing to the instant General Stipulation, OTS conducted a thorough review of Duquesne's Petition For Approval Of Default Service Plan For The Period January 1, 2008 Through December 31, 2010, and supporting information, discovery responses and the distributed testimony of other parties. OTS participated in the comprehensive settlement discussions that led to the signing of the General Stipulation.

## **Terms and Conditions of General Stipulation**

3. The instant General Stipulation, if approved, will enable Duquesne to ensure that its distribution customers have a stable and reliable source of supply

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<sup>1</sup> 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.

through December 31, 2010. OTS considers this component of the Stipulation to be particularly valuable and in the public interest.

4. The instant Stipulation, if approved, will eliminate declining energy blocks for Rate RH and RA customers so that all residential default service customers are charged flat energy supply rates as of January 1, 2010. OTS considers such a rate design changes to be consistent with sound rate making practices and to be another component of the Stipulation in the public interest.

5. The instant Stipulation, in conjunction with the other stipulations in the instant record, by definition collectively address issues of concern to all active parties.

6. OTS asserts that resolution of this case by stipulation will avoid the substantial time and expense involved in continuing litigation of the many complex issues involved. The existence of this General Stipulation and the other stipulations has already eliminated the need for cross-examination of each party's witnesses. Acceptance of this General Stipulation will negate the need for the preparation of main briefs, reply briefs, exceptions and reply exceptions, and potential appeals on matters contained in the stipulations. As such, OTS submits that the avoidance of further and unnecessary expense by virtue of these stipulations serves the interests of all involved parties and Duquesne's customers.

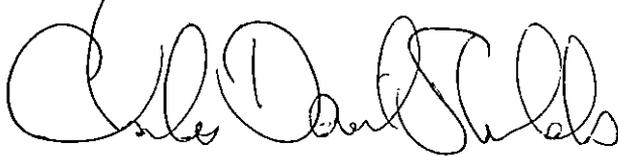
7. In consideration of Commission approval of the instant General Stipulation, Duquesne agrees not to seek a rate increase in default service rates except under certain limited and defined circumstances.

8. 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 General Stipulation and the other stipulations will establish the terms and conditions for Duquesne's default service through December 31, 2010.

**Conclusion**

9. The Office of Trial Staff has been fully involved in this proceeding and the settlement discussions that resulted in the instant General Stipulation. OTS reiterates that it fully supports the approval of the General Stipulation as being in the public interest and respectfully requests that Administrative Law Judge Larry Gesoff recommend, and the Commission subsequently approve without modification, the General Stipulation.

Respectfully submitted,



Charles Daniel Shields  
Senior Prosecutor  
Pa. Attorney I.D. #29363

Johnnie E. Simms  
Chief Prosecutor  
Pa. Attorney I.D. #33911

Dated: May 2, 2007

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for :  
Approval of Default Service Plan for the : Docket No. P-00072247  
Period of January 1, 2008 Through :  
December 31, 2010 :

SECRETARY'S BUREAU  
2007 MAY -2 AM 8:33  
FILED 07-11-07

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Statement in Support**,  
dated May 2, 2007, either personally, by first class mail, electronic mail, express mail  
and/or by fax upon the persons listed below:

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Charles Daniel Shields  
Senior Prosecutor  
Office of Trial Staff  
PA Attorney I.D. #29363

Dated: May 2, 2007  
Docket No. P-00072247



ORIGINAL

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Consumer Advocate

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May 4, 2007

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DOCUMENT  
FOLDER

RECEIVED  
2007 MAY -4 11:35:56  
SECRETARY'S BUREAU

RE: Petition of Duquesne Light Company for  
Approval of Default Service Plan for the  
Period January 1, 2008 through  
December 31, 2010  
Docket No. P-00072247

Dear Secretary McNulty:

Enclosed for filing, please find an original and three (3) copies of the Office of Consumer Advocate's Statement in support of the General Stipulation to Resolve All Issues, in the above-referenced proceeding.

Copies have been served on the parties of record as indicated on the enclosed Certificate of Service.

Sincerely,

David T. Evrard  
Assistant Consumer Advocate  
PA Attorney I.D. # 33870

Enclosure

cc: Honorable Larry Gesoff  
Parties of Record

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

Petition of Duquesne Light Company :  
for Approval of Default Service Plan : Docket No. P-00072247  
for the Period January 1, 2008 to :  
December 31, 2010 :

**DOCKETED**  
MAY 07 2007

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STATEMENT OF THE  
OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF THE GENERAL  
STIPULATION TO RESOLVE  
ALL ISSUES

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SECRETARY'S BUREAU

2007 MAY -11 PM 3:56

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**DOCUMENT  
FOLDER**

The Office of Consumer Advocate (OCA) supports in part, and does not oppose the remainder of, the General Stipulation to resolve all issues arising in the above-captioned proceeding. The OCA finds that the terms of the General Stipulation are in the public interest and in the interests of Duquesne Light Company's (Duquesne or Company) residential customers, and therefore requests that the General Stipulation be approved by the Administrative Law Judge and by the Public Utility Commission (Commission).<sup>1</sup>

**I. INTRODUCTION**

On January 25, 2007, Duquesne filed with the Pennsylvania Public Utility Commission a Petition setting forth its proposed plan for rendering Default Service to its

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<sup>1</sup> As noted in the General Stipulation, marked as Duquesne Exh. 2, the OCA supports Paragraph 1 of the Stipulation and Paragraphs 5 through 9. Paragraph 1 pertains specifically to Residential Customers and Paragraphs 5 through 9 either pertain generally to Residential customers or contain customary terms of settlement. The OCA does not oppose Paragraphs 2, 3 and 4, which address rates for Small C&I, Large C&I, and Lighting customers, respectively. The OCA also does not oppose the additional Stipulations marked as Duquesne Exhs. 3 and 4.

customers, beginning January 1, 2008 and continuing through December 31, 2010 (POLR IV Plan or Plan). Duquesne's proposed Plan would take effect upon the expiration of its current Default Service Plan, commonly referred to as POLR III, which occurs on December 31, 2007.

Duquesne's proposed Plan included different Default Service proposals for its Residential, Small Commercial & Industrial, Large Commercial & Industrial, and Lighting customer groups. For Residential customers, the POLR IV Plan proposed fixed price generation service for the three years the plan is in effect. Rates would increase on January 1, 2008 to reflect the cost of acquiring supply in the wholesale markets to serve the needs of the customers over the three year term of the Plan. For the major residential rate schedule, Rate RS, the rate would remain fixed for the life of the plan. Rate RS charges for generation service would increase, on average, by 17.6% over existing POLR III rates. On a total bill basis this would amount to an average increase of 9.2%.

Residential heating customers, those on Rates RH and RA, are currently under a declining block rate structure during the heating season and have a lower average rate than Rate RS. Under the declining block structure, RH and RA customers pay a lower rate for all electricity used in excess of 500 kwh. Under Duquesne's Plan, the Company would phase out the declining block structure incrementally over the three years of the Plan such that any differential between the residential rate schedules would be eliminated by 2010. Beginning January 1, 2010, all Residential customers (RS, RH and RA) would pay the same single, flat rate for all quantities of generation service. For Rate RH customers, generation rates would increase by 34.2% over POLR III rates, an increase of 19.3% on a total bill basis by 2010. For Rate RA customers, generation rates

would increase 16.7% over POLR III rates by 2010, an increase of 10.8% on a total bill basis.

Under its Plan, Duquesne proposed to acquire supply for residential customers in the wholesale markets through a contract with its affiliate, Duquesne Power. Duquesne Power will procure the supply from non-affiliated competitive wholesale suppliers and can rely on a variety of market purchases, including bilateral contracts, requests for proposals, and/or purchases in the short term markets. Duquesne Power will also procure the alternative energy resources, or alternative energy credits, needed to comply with the Alternative Energy Portfolio Standards Act. Duquesne Power will assume the risks associated with procuring that supply for the term of the contract, including the risk of changes in shopping levels, changes in load shape from the rate design changes, and changes in sales levels for other reasons.

For residential customers, Duquesne proposed an average generation rate of 7.16 cents/kwh.<sup>2</sup> To support the reasonableness of this rate, Duquesne compared the price to recent solicitations in New Jersey, Maryland and Pennsylvania, making the adjustments necessary to evaluate the prices on a comparable basis.

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<sup>2</sup> Duquesne's proposal in this case is for a POLR generation rate of 7.16 cents/kWh for residential customers. However, in developing that rate, the Company moved the charges for ancillary services and PJM administration from the generation component (where they are currently recovered under the POLR III plan) to the Transmission Service Charge implemented in connection with its most recent distribution rate case. In order to compare POLR IV with POLR III rates, the removed charges must be added back. Doing so produces a POLR IV rate of 7.41 cents/kWh.

**II. THE OCA WAS IN GENERAL AGREEMENT WITH THE PLAN AS FILED AND NOW SUPPORTS THE GENERAL STIPULATION AS IT PERTAINS TO RESIDENTIAL CUSTOMERS.**

As indicated in its Answer to Duquesne's proposal, and in the testimony of its witnesses,<sup>3</sup> the OCA was in substantial agreement with Duquesne's proposed Plan as it pertained to residential customers.<sup>4</sup> Duquesne's proposal for residential customers tracked its successful prior POLR models where the Company, an EDC that has divested its generation, established a fixed price and entered into a contract with its affiliate, Duquesne Power, to acquire the generation needed to serve its customers in the competitive wholesale markets. Through the use of fixed rates for residential customers over a three-year term, customers have been provided rate certainty and stability at rates reflecting the purchases that must be made in the wholesale markets to serve those customers. The OCA found those same elements present in the proposed Plan and deemed them not only critical to the success of the POLR IV Plan, but vital to the interests of residential customers.

On the matter of rate stability, OCA witness Kahal testified as follows:

The provision of electricity is an essential service for residential customers, and POLR services should be designed to ensure that the service remains stable and affordable. Residential POLR service should be characterized by the lowest level of rates, stability in rates, a diversified power supply arrangement if needed to facilitate rate stability and mitigate risk, and the potential availability of cost-effective demand-side management and energy sufficiency resources to provide residential

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<sup>3</sup> The OCA presented the testimony of two witnesses in this proceeding – Mr. Matthew I. Kahal and Ms. Barbara R. Alexander. Their testimony has been entered into the record by stipulation of the parties.

<sup>4</sup> Because small Commercial and Industrial and large Commercial and Industrial customers were separately represented by counsel in this case, the OCA focused its resources on representing the interests of Residential customers.

customers an opportunity to better manage electric power costs.

OCA St. No. 1 at 9.

In response to the question, "Why have you identified rate stability as an important characteristic of Residential POLR service?", Mr. Kahal replied:

Rate stability has long been recognized as a desirable feature for all electric rates, and it is important for reasons of affordability, budgeting, planning, and making rational decisions regarding appliance and equipment purchases. Even under fixed rates, residential customers experience changes in monthly electric power costs associated with weather-related usage. Given the greater degree of weather sensitivity of residential loads relative to non-residential loads, frequent and large changes in rates exacerbate household budgetary challenges.

OCA St. No. 1 at 10.

OCA witness Alexander addressed the importance of rate stability to customers with modest or fixed incomes. In response to the question, "Would residential customers in general benefit from monthly or quarterly price changes for a significant portion of their electric bill?", Ms. Alexander replied:

No. Changing POLR prices for such a significant portion of the bill every three months (or even more frequently) for residential customers would be harmful to many customers, particularly those with modest or fixed incomes. This type of pricing proposal for the generation portion of the bill would essentially prevent the EDC from offering budget payment plans because of the unknown and unpredictable nature of future POLR prices during a 12-month period. Another adverse impact of such an approach would be to threaten the affordability of basic electric service for those residential customers on payment plans and those enrolled in Customer Assistance Programs where the underlying bill must be stable and predictable to assure monthly payment.

OCA St. No. 2-R at 11-12.

Because of the importance of rate stability to residential customers, the OCA supported the Plan's proposal for a three-year fixed rate for those customers, and because the General Stipulation also provides generally for a three-year fixed rate for residential customers, the OCA is equally supportive of the General Stipulation.

The OCA also supported the proposed Plan's method of acquiring power to serve the Residential customers. Duquesne's plan to acquire supply through a full-requirements contract with its affiliate, Duquesne Power, and to have its affiliate bear the variety of market and regulatory risks that could occur over the term of the contract was critical to enabling Duquesne to offer fixed prices to residential customers. Equally important, the OCA supports this method of acquisition as being fully consistent with the directive of the Electric Competition Act that Default Service Providers "shall acquire electric energy at prevailing market prices" to serve default customers. 66 Pa.C.S. § 2807(e)(3). The OCA does not subscribe to the view that "prevailing market prices" necessarily means short-term or spot prices. As Mr. Kahal testified:

Prevailing market prices, however, are not simply spot prices from an organized market; rather they reflect the term over which the product is provided and the point(s) in time when the power is acquired.

OCA St. No. 1 at 9.

As noted above, the Company supported the reasonableness of its proposed 7.16 cent/kwh residential rate on the basis of an analysis of recent competitive solicitations conducted in Pennsylvania, New Jersey, Maryland and other PJM states. This analysis was performed by Company witness Neil S. Fisher, who determined that Duquesne's proposed prices for POLR service indeed reflected prevailing market prices.

Duquesne St. No. 3 at 64. OCA witness Kahal reviewed Mr. Fisher's analysis and concurred. He testified:

I believe that Mr. Fisher's detailed analysis demonstrates that the Company's price proposal is a reasonable estimate of what a competitive procurement would produce, based on an analysis of such procurements for residential or small customer POLR conducted by other utilities in the PJM region.

It should be noted that the Commission itself has concluded that the utility's price offer can be determined to be consistent with prevailing market prices if there is adequate supporting evidence. In its September 30, 2004, Opinion and Order in the POLR III case (Docket No. P-00032071), the Commission concluded:

we relied on the record evidence to determine that the proposed rates reflected prevailing market prices for energy for a three-year term...

a competitive procurement process is not the exclusive method to arrive at a prevailing market price. (page 26)

As in the POLR III case, I believe that the Company has provided sound evidence that its proposed rate is a reasonable estimate of the three-year forward market price.

OCA St. No. 1 at 12-13.

Given that Duquesne's original Plan proposed a procurement method that not only met the legal requirement of acquiring supply at prevailing market prices, but also facilitated the offering of stable and reasonable rates for residential customers, the OCA supported this aspect of the Plan as filed. Importantly, the OCA notes that the General Stipulation does nothing to disturb the Company's plan for acquiring supply or the pricing of that supply at retail.

The OCA was also in general agreement with Duquesne's proposal to use the three-year transition period of POLR IV to address residential rate designs, such as

the declining block rate structures for the Rate RH and RA customers. Declining block rates can impede conservation and make it difficult for customers to make comparisons of competitive offerings. The OCA was concerned, however, that Duquesne's proposal to charge the residential heating customers the same per kwh rate as the regular residential rate schedule did not properly reflect the usage of the heating customers in the lower priced periods, such as the off-peak hours and lower priced winter months. As will be explained below, this became one of two issues the OCA raised with the Company's Plan as filed.

**III. THE OCA RAISED TWO ISSUES WITH RESPECT TO DUQUESNE'S PLAN AS FILED. BOTH HAVE BEEN ADDRESSED IN THE GENERAL STIPULATION.**

The OCA identified two concerns with Duquesne's Plan as proposed. The first concern was with the proposal to make uniform the rates of all residential customers, both heating and non-heating, by January 1, 2010. The second concern involved the circumstances under which Duquesne could seek to increase POLR rates in the event Duquesne Power defaulted under the supply contract. Both of these concerns have been satisfactorily addressed in the General Stipulation.

**A. Uniformity of Residential Rates**

Part of Duquesne's proposal to make residential rates uniform by 2010 was its plan to eliminate the declining block rates for heating customers, those served under Rates RH and RA. As indicated above, the OCA does not object to the phase-out of the declining blocks. The OCA was concerned, however, with the magnitude of the rate increase proposed for the RH customers and with the fact that a uniform rate would not reflect the fact that the cost to supply generation service to RH customers is

somewhat less than for non-heating customers under Rate RS. These concerns were explained in Mr. Kahal's testimony as follows:

Q. DO YOU AGREE WITH THIS RATE DESIGN CHANGE?

A. Not entirely. I agree with the objective of moving gradually to a "flatter" generation rate design (on a phased-in basis) and reducing the average generation rate disparity between RS and the heating customers. Also, I have no objection to the Company's proposal for Rate RA customers because the "flat rate" proposal produces a percentage rate increase similar to that of Rate RS customers.

My difference with Mr. Pfrommer is his proposal to completely equalize the generation rates for Rate RS and RH customers. While the Company proposes a 9.2 percent bundled rate increase and a 17.6 percent generation rate increase for RS customers, Mr. Pfrommer identifies a 19.3 percent (phased-in) rate increase for bundled service and a 34.2 percent generation rate increase for RH customers. By any standard, these are extremely large rate increases even though they are being phased in over three years. Moreover, these are the rate increases for the average-size RH customer. Customers with above average usage in non-summer months would experience generation cost increases even larger than 34 percent (on an annual basis). Undoubtedly, some if not all of these customers would view rate increases this large as constituting severe rate shock.

Q. ARE THERE ANY OTHER REASONS YOU OPPOSE THE PROPOSED RATE INCREASE FOR THE RH CUSTOMERS?

A. Yes. As mentioned earlier, I believe the primary rationale for the change is the view that today's very low tail block rate is far out of line with market prices for generation, and I do not disagree. However, the Company's proposal fails to recognize that market generation costs are at least somewhat lower for the RH customers as compared to the RS customers.

In response to OCA I-20, DLC concedes that market generation costs are lower for the RH customers:

Duquesne agrees that the load profile for customers in rate class RH has a slightly lower cost to serve than other residential customers.

However, the response goes on to discount this observation by noting that the RS versus RH cost-to-serve difference is not substantial, only about an estimated 0.3 cents per kWh, and the small number of RH

customers (about 25,000) does not warrant the complexity of a separate RH rate.

Using data from the response to OCA 1-18, I calculate that RS customers consume 31 percent of their annual kWh in the three (high cost) summer months (June-August), while the RH customers purchase only 19 percent of their annual energy in those summer months.

OCA St No. 1 at 17-18.

On the basis of his analysis, Mr. Kahal recommended that at the conclusion of the phase-out of the declining block rates in 2010 that there remain a small differential in pricing between Rates RS and RH. OCA St. No. 1 at 18.

The OCA notes that the General Stipulation provides for just such a differential. The RS rate for each of the three years of the plan will be 7.156 cents per kWh, while the RH rate in 2010 will be 6.895 cents per kWh, a difference of .261 cents per kWh. The OCA finds this differential acceptable.

#### **B. Rate Increases Due to Default by Duquesne Power**

As filed, the Company's Plan did not detail what would happen in event Duquesne Power would default under its full-requirements supply contract with Duquesne Light. This became an area of inquiry for the OCA in the discovery portion of this proceeding. In particular, the OCA was concerned about what would happen to customer rates if Duquesne Power defaulted and the Company was forced to purchase replacement supply at prices higher than the contract price with Duquesne Power.

In its responses to OCA interrogatories, the Company explained the protections that are in place to shield POLR customers from rate increases in the event of a default under the supply contract. The Company also identified the very limited circumstances under which it would seek to increase rates. These clarifications have

been embodied in Paragraph 8 of the General Stipulation, which provides in pertinent part as follows:

Duquesne Light agrees not to seek a rate increase in default service rates...unless (i) Duquesne Power defaults on its power contract with Duquesne Light, and (ii) Duquesne Light Holdings defaults on its parent guarantee, and (iii) these defaults threaten the financial ability of Duquesne Light to continue providing reliable service to its customers.

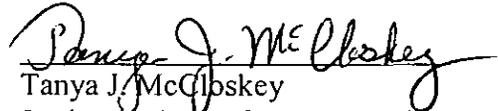
Duquesne Exh. No. 2, ¶8.

Based on the Company's explanations of the financial protections in place and its willingness to specify the limited instances for a POLR rate increase in the General Stipulation, the OCA's concerns in regard to these matters have been satisfied.

#### IV. CONCLUSION

The OCA was generally supportive of Duquesne's Plan as filed and raised only two specific issues with regard to that Plan. The General Stipulation retains all of the favorable features of the original Plan and satisfactorily addresses the issues raised by the OCA. Overall, the OCA submits that the Plan, as modified by the General Stipulation, will provide Duquesne's residential customers with stable and reasonably priced POLR service for the period 2008 through 2010. As such, the OCA submits that the Plan and General Stipulation are in the public interest and in the interests of Duquesne's residential customers, and should be adopted by the Administrative Law Judge and by the Commission.

Respectfully Submitted,



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DATED: May 4, 2007  
93808.doc

CERTIFICATE OF SERVICE

Petition of Duquesne Light Company :  
for Approval of Default Service Plan : Docket No. P-00072247  
for the Period January 1, 2008 through :  
December 31, 2010 :

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

Dated this 4<sup>th</sup> day of May 2007.

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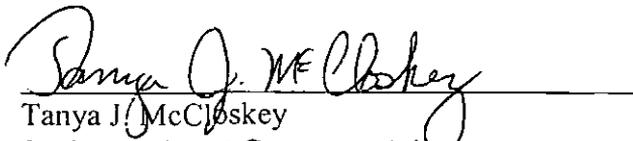
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ORIGINAL

**Re: Petition of Duquesne Light Company for Approval of Default Service Plan For The  
Period January 1, 2008 Through December 31, 2010  
Docket No. P-00072247**

Dear Secretary McNulty:

I am delivering for filing today the original plus three copies of the Statement in Support of the Stipulations, on behalf of the Office of Small Business Advocate in the above-captioned proceeding.

Two copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Sharon E. Webb  
Assistant Small Business Advocate  
Attorney ID No. 73995

Enclosures

cc: Parties of Record  
Brian Kalcic

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

Petition of Duquesne Light Company :  
For Approval of Default Service Plan For : Docket No. P-00072247  
The Period January 1, 2008 Through :  
December 31, 2010 :

**STATEMENT OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE  
IN SUPPORT OF THE STIPULATIONS**

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**Procedural History**

The Office of Small Business Advocate ("OSBA") is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interest of small business consumers as a party in proceedings before the Pennsylvania Public Utility Commission ("Commission").

On January 25, 2007, Duquesne Light Company ("Duquesne" or "Company") filed a Petition for Approval of a Default Service Plan ("POLR Plan") for the Period January 1, 2008 through December 31, 2010 ("Petition"). Duquesne sought the Commission's approval of its POLR Plan pursuant to Chapter 28 of the Public Utility Code and 52 Pa Code § 5.41 of the Commission's Regulations.

Notice of the Petition was published in the February 10, 2007, edition of the *Pennsylvania Bulletin*. The notice required that formal protests, petitions to intervene, and answers be filed with the Secretary of the Commission by or before February 26,

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2007. In accordance with said notice, and also with 52 Pa. Code § 5.61, the Office of Small Business Advocate (“OSBA”) timely filed an Answer and Notice of Intervention on February 26, 2007.

Subsequently, the OSBA filed the direct, rebuttal, and surrebuttal testimony of OSBA witness Brian Kalcic. *See*, respectively, OSBA Statement No. 1, OSBA Statement No. 2, and OSBA Statement No. 3. The OSBA also actively participated in the negotiations which led to the filing on April 26, 2007, of the Joint Stipulation (“General Stipulation”) and also the additional Stipulation between the Company, the OSBA, and Direct Energy Services (“MST Stipulation”).

#### **Duquesne’s Original POLR Plan**

In its Answer and through its testimony in this proceeding, the OSBA identified several issues of primary concern, including the following:

- a. Whether Duquesne’s original proposal would produce retail rates which properly reflect prevailing market prices or are otherwise just, reasonable, non-discriminatory, and lawful.*

Section 2807(e)(3) of the Public Utility Code, 66 Pa. C.S. § 2807(e)(3), requires Duquesne to “acquire electric energy at prevailing market prices” to serve POLR customers. Section 2802(9) of the Public Utility Code, 66 Pa. C.S. § 2802(9), requires Duquesne to make electric service available “to all customers on reasonable terms and conditions.” Section 2804(7) of the Public Utility Code, 66 Pa. C.S. § 2804(7), requires that the restructuring of Duquesne “not unreasonably discriminate against one customer class to the benefit of another.”

- b. *Whether there is a reasonable basis for adjusting the rates of Duquesne's small commercial and industrial ("Small C&I") customers more frequently than those of Duquesne's residential and lighting customers.*

Under Duquesne's original proposal, rates for residential and Small C&I customer would have been increased as of January 1, 2008, to reflect Duquesne's estimate of market prices. Small C&I customers would have been exposed to market risk through subsequent annual pricing adjustments on January 1, 2009, and January 1, 2010. However, for the same three-year period of 2008 through 2010, the residential and lighting customers would pay a fixed price and would not be exposed to any market risk.

Duquesne has historically treated its residential and Small C&I POLR customers the same, *i.e.*, they all have received fixed-price POLR service. (OSBA St. No. 1, p. 9; OSBA St. No. 3, pp. 2-3) Duquesne's Petition failed to justify exposing Small C&I customers to market risk while shielding residential and lighting customers from that risk over the same three-year period. Duquesne's stated rationale for this difference in treatment is that Small C&I customers "generally have somewhat higher switching levels than residential customers, indicating that Small C&I customers are somewhat more sophisticated about their service options and have more opportunities to shop than do residential customers." (OSBA St. No. 1, pp. 9-10, *citation omitted*; *see*, also, OSBA St. No. 3, pp. 1-2) However, the shopping frequency among Duquesne's residential customers has historically been higher than the shopping frequency among Duquesne's Small C&I customers. (OSBA St. No. 1, pp. 10-11) Furthermore, Small C&I customers

with peak demands below 25 kW are currently paying above-market POLR rates but are not shopping in significant numbers. (OSBA St. No. 1, pp. 11-12)

- c. Whether Duquesne's methodology for determining the annual adjustment for Small C&I customers would fail to result in the appropriate market price.*

In its Petition, Duquesne indicated it would purchase electricity from Duquesne Power for three years based on prevailing market prices. For purposes of setting POLR rates for 2008, Duquesne estimated prevailing market prices by comparing recent competitive auctions for full-requirements default service supply in New Jersey, Maryland, Illinois, and Pennsylvania and adjusting the results of the auctions to reflect Duquesne's particular circumstances. However, when determining the appropriate measurement of changes in the market price for purposes of the annual adjustment for Small C&I customers, Duquesne proposed to rely solely on the changes in market prices at the Northern Illinois Hub ("NIH"). Duquesne provided no justification in its original filing to show why changes in NIH prices would be the appropriate basis for determining the annual adjustment in Small C&I rates. (OSBA St. No. 1, pp. 7-8)

- d. Whether Duquesne's proposal to base the annual measurement of market price changes on an average of data from the 20-day trading period prior to October 1<sup>st</sup> was contrary to Commission policy.*

The 20-day trading period selected by Duquesne for measuring market price changes is in the height of the hurricane season. Therefore, Duquesne's proposal was comparable to the decision by Pike County Light and Power Company ("Pike") to

purchase its entire POLR load on a single day in the fall of 2005. (OSBA St. No. 1, p.8)

To avoid a repeat of the Pike problem, the Commission required Penn Power to purchase its POLR load through two separate auctions (in May and July of 2006) rather than base POLR rates on one auction in a single-time period during the hurricane season. (OSBA St. No. 3, pp. 4-6)

*e. Whether Duquesne's theory that adjusting Small C&I rates annually would encourage shopping has any basis in fact.*

As evidenced in the table set forth below, Small C&I customers with a peak demand of 30 kW or less are already paying above what Duquesne has determined the market price to be. (OSBA Answer, p. 4)

**Current and Proposed Average Generation Rates\***  
**Over Select Types of Rate GM Customers**  
 (¢/kWh)

<i>GM Customer</i>	<i>Market**</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
8 kW 15% Load Factor	7.34¢	11.17¢	9.46¢	8.40¢	7.34¢
30 kW 25% Load Factor	7.34¢	8.79¢	8.80¢	8.07¢	7.34¢
60 kW 35% Load Factor	7.34¢	7.19¢	7.92¢	7.63¢	7.34¢
170 kW 55% Load Factor	7.34¢	5.81¢	7.07¢	7.21¢	7.34¢
220 kW 75% Load Factor	7.34¢	5.19¢	6.67¢	7.00¢	7.34¢

\*Includes ancillary services and PJM administration costs.

\*\*Per Duquesne's POLR IV filing.

However, only a relatively modest percentage of the customers with a demand of 30 kW or less is buying service from electric generation suppliers (“EGSs”). (OSBA St. No. 1, pp. 10-12; OSBA St. No. 3, pp. 6-7)

*f. Whether Duquesne's proposed schedule for the elimination of declining block rates and demand charges was appropriate.*

As shown in the table above, the POLR rate for a typical Small C&I customer with a peak load of 60 kW is currently below what Duquesne alleges the market to be. However, it appears that Duquesne’s original proposal would have raised the rate for that customer above market in 2008 and 2009 and not dropped it back to the market price until 2010.

*g. Whether Duquesne's originally-filed POLR Plan should be amended to be consistent with the version of the Commission's POLR regulations issued for comment at the February 8, 2007, Public Meeting.*

The latest version of the Commission’s POLR regulations were issued as an Advance Notice of Final Rulemaking subsequent to Duquesne’s filing. Although the POLR regulations *may* not apply to this case, the Commission presumably expects parties to compare the filing to the regulations and justify the differences. Under the regulations, Small C&I customers with peak demand of less than 25 kW are to be treated the same as residential customers for purposes of setting POLR rates. (OSBA St. No. 2, pp. 2-3)

## Stipulations

The Stipulations set forth a comprehensive list of issues which were resolved through the negotiation process. The Stipulations produce a compromise that does not address all of the concerns raised in the OSBA's answer and testimony. However, because the Stipulations will produce substantially more favorable POLR rates for Small C&I customers than Duquesne's original POLR Plan, the OSBA concluded that the Stipulations are in the best interests of small business customers.

The following is a summary of the key Small C&I customer provisions in the Stipulations.

1. The OSBA's concern that Duquesne's proposal to treat residential customers differently than Small C&I has been mitigated by the terms of the General Stipulation. As originally proposed by Duquesne, the residential customers will receive a fixed price for three years and will, therefore, not be exposed to any market risk in that period. (OBBA St. No. 1, pp. 9-12) The General Stipulation offers comparable protection to Small C&I customers which have a maximum registered peak demand of less than 25 kW and are served under rate schedules GS/GM and GMH. Specifically, although not truly fixed rates on an individual customer basis, the average POLR rate for this group of Small C&I customers will be fixed. Individual customers in that group will experience annual rate changes on January 1, 2009, and January 1, 2010, to reflect the phase-out of the demand charge and declining block rates.

2. The OSBA's concerns about the manner in which Duquesne proposed to adjust the rates of Small C&I customers on schedules GM and GMH with peak demands

of 25 kW to 300 kW has been mitigated. Pursuant to the terms of the General Stipulation, Duquesne will offer that group of Small C&I customers fixed rates for 2008. The POLR rates for those customers will then be subject to two market price adjustments (every six months, for a total of four adjustments) in calendar years 2009 and 2010, respectively. The frequency of the adjustments will mitigate the risk that rates will increase significantly because of a dramatic, one-time development (such as occurred in Pike) and that POLR customers will then be locked into the higher POLR rate for one year even though general market prices abate.

3. The OSBA's concerns about the timing of the adjustments to Small C&I rates has been addressed by the General Stipulation. In an effort to avoid a situation like the one which arose in Pike, the General Stipulation provides that the January 1, 2009, and January 1, 2010, market price rate adjustments will be based on the 20 trading days prior to December 1<sup>st</sup> and not the 20 trading days prior to October 1<sup>st</sup>. Delaying the period for measuring market price changes could reduce the chance that the hurricane season will significantly affect POLR rates.

4. The OSBA's concerns about the pace of eliminating declining block rates and demand charges has been addressed by the terms of the General Stipulation. The General Stipulation retains Duquesne's original proposal to eliminate declining blocks for Small C&I customers paying under rate GS as of January 1, 2008, and to phase out the demand charge and declining block rates by January 1, 2010, for those Small C&I customers paying under rates GM and GMH with demand less than 25kW. However, the General Stipulation will eliminate the demand charge and declining blocks for Small C&I

customers with demand of 25 kW or greater on January 1, 2008, rather than (as originally proposed by Duquesne) phase them out by January 1, 2010. Generally, demand charges and declining blocks produce a wide disparity in the average generation rates paid by Small C&I customers. However, such disparities have not been shown to be market based. Accordingly, the accelerated elimination of such charges for the larger Small C&I customers will assist in making the POLR rates more reflective of the market than they would have been under Duquesne's original proposal.

5. Under the MST Stipulation, the OSBA has agreed to participate in a collaborative with Duquesne, Direct Energy Services, and other interested parties for purposes of exploring the possibility of establishing a Market Share Threshold ("MST") program for Small C&I customers with peak demand under 25 kW. The OSBA agreed to participate in this collaborative because of the possibility of increasing shopping opportunities for low load factor customers (by reducing EGS marketing costs) without denying those Small C&I customers the benefits of fixed POLR rates.

6. By resolving the issues of principal concern to the OSBA, the Stipulations enable the OSBA to conserve its resources and avoid the uncertainties inherent in fully litigating the issues addressed by the Stipulations.

WHEREFORE, the OSBA respectfully requests that the Administrative Law Judge and the Commission approve the Settlement without modification.

Respectfully submitted,



---

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For: William R. Lloyd, Jr.  
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Date: May 4, 2007

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

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May 4, 2007

VIA HAND DELIVERY

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PENNSYLVANIA PUBLIC  
UTILITY COMMISSION  
SECRETARY'S BUREAU

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
PO Box 3265  
Harrisburg, PA 17105-3265

**RE: Petition of Duquesne Light Company for Approval of Default Service  
Plan for the Period January 1, 2008 through December 31, 2010  
Docket No. P-00072247**

Dear Secretary McNulty:

Enclosed for filing in the above-referenced proceeding are the original and three copies of the Statement of Duquesne Light Company in Support of Stipulations Settling All Issues.

As indicated on the certificate of service, copies of the Statement have been served on the parties of record.

Respectfully submitted,

Anthony D. Kanagy

DOCUMENT FOLDER  
POSTSCHELL  
MAY 07 2007

ADK/skr

Enclosures

cc: Honorable Larry Gesoff  
John A. Kelly, Commonwealth Reporting Company, Inc.  
Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :  
For Approval of Default Service Plan : Docket No. P-00072247  
For The Period January 1, 2008 :  
Through December 31, 2010 :

**STATEMENT OF DUQUESNE LIGHT COMPANY  
IN SUPPORT OF STIPULATIONS SETTling ALL ISSUES**

Duquesne Light Company ("Duquesne Light") has entered into three stipulations with the Parties<sup>1</sup> in the above-referenced proceeding which have resulted in the settlement of all issues with all Parties (hereafter "Settlement"). Duquesne Light believes that this Settlement is in the best interests of Duquesne Light and its default service customers and will enhance retail competition. Therefore, the Settlement is in the public interest and should be approved. Duquesne Light submits this Statement in Support to explain the reasons that support such conclusion.

**DOCUMENT  
FOLDER**

**I. INTRODUCTION**

Since restructuring, Duquesne Light has implemented three very successful default service programs. These programs have helped create the most competitive shopping environment in the Commonwealth and also have provided customers with substantial rate reductions. Duquesne Light's current default service plan, as modified by the Settlement, will build upon the success of Duquesne Light's prior default service plans.

**DOCKETED**  
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<sup>1</sup> The parties in this proceeding are Duquesne Light, the Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), Dominion Retail, Inc. ("Dominion"), Reliant Energy, Inc. ("Reliant"), Conservation Consultants, Inc. ("CCI"), Constellation New Energy, Inc. and Constellation Energy Commodities Group, Inc. (collectively "Constellation"), Citizen Power, Inc. ("Citizen Power"), Exelon Corporation and Exelon Generation Company, LLC (collectively "Exelon"), Citizens For Pennsylvania's Future ("PennFuture"), FirstEnergy Solutions Corp. ("FES"), the Pennsylvania Large Energy Users Coalition ("PALEUC"), Duquesne Industrial Intervenors ("DII"), Strategic Energy, LLC ("Strategic"), Direct Energy, LLC ("Direct") and Retail Energy Supply Association ("RESA") (collectively, the "Parties").

In developing its default service plan, Duquesne Light considered several important policy issues. Two of the most important were (i) the effect of the plan on competition and (ii) the level of price certainty and rate stability provided for different customer groups. Other important policy considerations include the transitional nature of the filing, the impact of legacy rate designs and conservation. As explained below, Duquesne Light believes that its default service plan, as modified by Settlement, appropriately balances these important policy issues. The Settlement provides significant benefits to Duquesne Light's customers in terms of reasonable default service rates with appropriate levels of rate stability for each of the major customer groups. The default service plan, as amended by the Settlement, also advances retail competition by offering rates at prevailing market prices, adopting a purchase of receivables program ("POR Program") for Residential and small commercial and industrial ("Small C&I") customers, providing for a Market Share Threshold ("MST") collaborative, and eliminating, over time, energy demand charges and declining block energy rates.

The reasonableness of the proposed Settlement is further demonstrated by the fact that it either is supported, or not opposed, by all Parties in this proceeding. The Parties include consumer advocate groups, multiple EGSs, large customer groups, and others. This is a remarkable achievement and clearly demonstrates that the Settlement is in the public interest and should be approved.

The Settlement was achieved after considerable investigation of Duquesne Light's default service plan, through both informal and formal discovery, and submission of direct, rebuttal and surrebuttal testimony by a number of the Parties in this proceeding. The Settlement, if approved by Administrative Law Judge Larry Gesoff (the "ALJ") and the Pennsylvania Public Utility Commission ("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.

## II. RESIDENTIAL CUSTOMER PLAN

In its original filing, Duquesne Light proposed to establish residential customer rates for three years commencing January 1, 2008, based on prevailing market prices for a three-year fixed price full requirements contract to serve these customers.<sup>2</sup> Duquesne Exh. No. 1, p. 16. In order to determine prevailing market prices, Duquesne Light reviewed the results of recent competitive wholesale solicitations in Pennsylvania, New Jersey, Maryland and Illinois. All of these solicitations involved full requirement default service supply service to residential and/or small commercial and industrial customers. In order to compare the solicitations on an “apples to apples” basis, Duquesne Light adjusted the results: (1) to state the prices on a comparable basis for definitional differences in product (including network transmission, line losses, ancillary services and taxes); (2) for location and timing differences; and (3) for different risk factors. Duquesne Exh. No. 1, p. 21. In order to mitigate customer rate impacts, Duquesne Light also proposed to move the RH rate to equal the RS and RA rates in 2010 and to eliminate declining energy blocks for RH and RA customers by January 1, 2010. Duquesne Exh. No. 1, p. 17.

As explained in more detail in Section VII below, many of the Parties that filed testimony in this proceeding largely supported or did not oppose the rate levels proposed by Duquesne

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<sup>2</sup> The Residential Customer classes include Rate RS – Residential Service (“Rate RS”), Rate RH – Residential Service Heating (“Rate RH”) and Rate RA – Residential Service Add-on Heat Pump (“Rate RA”).

Light. In its testimony, the OCA stated that "... the Company's price proposal is a reasonable estimate of what a competitive procurement would produce ...." OCA St. No. 1, p. 12. However, the OCA suggested one modification to the Company's residential rate proposal. While the OCA agreed with Duquesne Light's overall policy of narrowing the differences in RH and RA rate levels, the OCA did not believe the supply rates should be the same in 2010. OCA St. No. 1, pp. 17-19. It was OCA's position that the rate for RH customers should be lower than the rate for RS and RA customers in 2010, due to OCA's belief that the RH customer load profile justified a lower rate and in order to mitigate rate impacts for these customers created by eliminating declining energy blocks.

The Settlement rates for residential customers served under the RS and RA rate schedules reflect the rates originally filed by Duquesne Light. However, as a result of OCA's concerns, Duquesne Light and the other Parties agreed to a compromise whereby the supply rate for Rate RH customers in 2010 is \$0.00261 per kWh lower than the supply rates for Rate RS and RA customers. Duquesne Exh. No. 2, p. 2. The 2010 supply rate for Rate RH customers was adjusted to reflect the market cost to serve the Rate RH class separated from the other residential classes.<sup>3</sup> Duquesne Light believes that this adjustment is in the public interest because it is based on the market cost to serve the Rate RH class and will mitigate rate impacts for Rate RH customers in 2010 as compared to Duquesne Light's original proposal.

As Duquesne Light proposed in its original filing, declining block energy rates for residential heating customers will be phased out by January 1, 2010. Duquesne Exh. No. 2, p. 2. Phasing out declining energy blocks will give customers an opportunity to adjust to the new rate

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<sup>3</sup> The RH rates proposed for 2008 and 2009 are increased slightly in the Settlement to recover the revenue shortfall that results from a lower than proposed RH rate in 2010. This adjustment also will allow the RH rate to more closely track the market cost to serve while phasing in the rate increase.

design and to avoid potential rate shock. Duquesne Light believes that phasing out declining energy blocks is in the public interest because it will simplify customers' rates. This will make it easier for customers and marketers to compare competitive offers. Likewise, eliminating declining energy blocks should encourage conservation.

Duquesne Light believes that its default service plan for residential customers, as modified by the Settlement, appropriately balances the identified policy goals. The plan provides stable rates for residential customers over a three-year period. Duquesne Light believes that it is important to provide stable rates for residential customers because the competitive market for these customers is still developing.<sup>4</sup> In addition, the default service plan will promote competition for residential customers by re-setting rates to reflect prevailing market prices. As noted above, the Plan also will promote competition by eliminating declining energy blocks. Moreover, as explained below, Duquesne Light has agreed to implement a POR Program to further encourage EGSs to serve small customers in Duquesne Light's service territory. Based upon these factors, Duquesne Light believes that the plan, as modified by the Settlement, provides appropriate rate stability and promotes competition for residential customers in its service territory.

### III. SMALL C&I CUSTOMER PLAN

In its original filing, Duquesne Light proposed to fix default supply prices for Small C&I customers in 2008, and to adjust the rates in 2009 and 2010 to reflect changes based on an annual forward market price index.<sup>5</sup> Duquesne Exh. No. 1, p. 14. Duquesne Light also proposed to eliminate declining energy blocks and supply related demand charges for all Small C&I

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<sup>4</sup> Dominion, the electric generation supplier ("EGS") serving the largest number of Duquesne Light's residential customers, supports this position. Dominion St. No. 1, 9.

<sup>5</sup> The Small C&I customer classes include Rate GS, Rate GM and Rate GMH.

customers so that as of January 1, 2010, all Small C&I customers would be charged flat energy supply rates. Duquesne Exh. No. 1, pp. 14-15.

In its testimony, the OSBA argued that all Small C&I customers should have fixed rates for a three-year period similar to those offered to residential customers. OSBA St. No. 1, p. 2. As support for its position, the OSBA cited to the Commission's draft regulations which propose that rates for residential and Small C&I customers be adjusted with the same frequency. OSBA St. No. 1, pp. 12-13. Various other parties contended that more frequent changes for Small C&I customers were appropriate to support competition. Direct/RESA St. No. 1, p. 11; SE/RESA St. No. 1, p. 15.

The Settlement reflects a carefully balanced compromise of these competing positions. In order to achieve a compromise of the Parties positions, Duquesne Light divided the Small C&I classes into two subgroups. The first subgroup is Small C&I customers that have less than 25 kW of maximum peak demands. These customers are the smallest of the commercial and industrial customers, and in terms of overall usage, many of these customers are similar to Residential customers. Duquesne Light notes that the Commission's Policy Statement regarding default service treats Residential and Small C&I customers with less than 25 kW of maximum demand the same for purposes of acquiring supply. See Proposed 52 Pa. Code § 69.1805. The second subgroup is Small C&I customers that have maximum peak demands of 25 kW or greater. These are the larger Small C&I customers and generally represent larger business entities.

Under the Settlement, Duquesne Light will offer Small C&I customers with less than 25 kW of maximum peak demands fixed rates for the three-year term of the default service plan. Duquesne Exh. No. 2, p. 2. In addition, as explained in more detail below, in an effort to

enhance the competitive market, Duquesne Light has agreed to convene a collaborative to attempt to develop a MST Program for up to 5,000 GS and GM customers with less than 25 kW of maximum peak demands. If an MST Program is implemented, EGSs will be able to bid to supply generation service to certain Small C&I customers. Bids must reflect a discount off of default supply rates.

For Small C&I customers with maximum peak demands of 25 kW or greater, Duquesne Light will offer fixed default service supply rates in 2008. In 2009 and 2010, default service supply rates for these customers will be adjusted every six months based on changes in a market index. Duquesne Exh. No. 2, pp. 2-3.

The Settlement compromises the positions of the OSBA and the EGSs and is in the public interest. The Settlement will ensure that the smallest of the Small C&I customers (those under 25 kW) are offered default service that, in effect, mirrors the plan for residential customers. Given their similarity, Duquesne Light believes that it is appropriate to offer these Small C&I customers a default service rate plan that is similar to the plan offered to Residential customers. As noted above, the Commission's proposed Policy Statement regarding default service provides that default service providers should acquire supply for residential and Small C&I customers with less than 25 kW in maximum peak load under the same conditions. See Proposed 52 Pa. Code § 69.1805. Moreover, the MST collaborative creates an opportunity to further enhance the competitive market for Small C&I customers with less than 25 kW of maximum peak demands in Duquesne Light's service territory. If the MST Program is implemented, EGSs will be able to bid to supply generation service to these Small C&I customers. This would provide an additional avenue for EGSs to enter into or expand their service in Duquesne Light's service territory.

In addition, the Settlement addresses the EGSs' requests for more frequent rate adjustments to support competition by adjusting rates for Small C&I customers with maximum peak demands of 25 kW or greater every six months in 2009 and 2010, as opposed to an annual basis. Duquesne Light believes that more frequent adjustments for Small C&I customers with maximum peak demands of 25 kW or greater is appropriate for settlement purposes because these larger Small C&I customers should be able to adjust to changing prices easier than the smaller customers.

With respect to rate design issues, in its original filing, Duquesne Light proposed to eliminate declining energy blocks for Rate GS customers by January 1, 2008, and for Rate GM and GMH customers by January 1, 2010. Duquesne Exh. No. 1, p. 15. In its testimony, Constellation argued that Duquesne Light should eliminate declining energy blocks for all Small C&I customers by January 1, 2008. Constellation NewEnergy St. No. 1, pp. 8-9. As a compromise, Duquesne Light and the Parties agreed under the Settlement to eliminate declining energy blocks for Rate GM/GMH customers that have a maximum monthly metered demand of 25 kW or greater on January 1, 2008.<sup>6</sup> Duquesne Light believes that this Settlement condition is in the public interest because it will simplify rate comparisons for these customers and should promote competition.

In addition, as the Company originally proposed, supply related demand charges for all Small C&I customers will be phased out by January 1, 2010. Duquesne Exh. No. 2, p. 2. The phase out will mitigate rate impacts associated with eliminating demand charges and provide flat supply rates for all Small C&I customers by January 1, 2010. Flat energy rates should promote competition by making it easier for customers and marketers to compare rates. Elimination of

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<sup>6</sup> Declining blocks for the Rate GM/GMH customers that have demands less than 25 kW will be phased out by January 1, 2010.

supply-related demand charges also will allow default service rates to more closely track market prices.

#### IV. LARGE C&I CUSTOMERS

In its original filing, Duquesne Light proposed to offer large commercial and industrial (“Large C&I”) customers<sup>7</sup> default service at real-time hourly rates. Duquesne Exh. No. 1, pp. 12-13. Duquesne Light considered offering fixed price service to Large C&I customers but decided against it for several reasons. As explained below, very few customers are currently taking fixed price default service from Duquesne Light. In addition, as explained in Mr. Fisher’s testimony, Duquesne Light has experienced considerable difficulty in obtaining fixed price bids to serve Large C&I customers through competitive solicitations. Duquesne St. No. 3, p. 10. In October 2004, Duquesne Light conducted a competitive solicitation process to offer fixed price service to Large C&I customers, and the solicitation resulted in only six bids with a wide variation in price. Few customers elected the resulting fixed rate option. Duquesne St. No. 3, p. 9. In March 2006, Duquesne Light conducted a second competitive solicitation and received no bids. The Commission subsequently modified the solicitation process to make it more attractive to bidders and to allow Duquesne Light’s affiliate, Duquesne Power, to bid. This solicitation resulted in only one bid and that was from Duquesne Power. Duquesne St. No. 3, p. 10. Given this experience, and the high level of Large C&I customers that are shopping, Duquesne Light decided not to offer a fixed price default service to Large C&I customers.<sup>8</sup> However, in response to concerns from DII, Duquesne Light has agreed to offer a day-ahead hourly priced default service. See Duquesne Exh. No. 4.

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<sup>7</sup> Large C&I customer classes include Rate GL, Rate GLH, Rate L and Rate HVPS.

<sup>8</sup> As of December 2006, 98% of the Large C&I load in Duquesne Light’s service territory was being served by an alternative supplier.

Duquesne Light believes that offering day-ahead hourly priced default service to Large C&I customers is in the public interest. Under the POLR III Plan, Duquesne Light's Large C&I customers could choose between fixed price or real-time hourly priced default services.<sup>9</sup> As of December 31, 2006, only six of 871 eligible customers were receiving fixed price default service from Duquesne Light. Because so few Large C&I customers in Duquesne Light's service territory are taking fixed price default service and because of the difficulty in obtaining bids to provide fixed price service to Large C&I customers, Duquesne Light believes that it is appropriate to eliminate the fixed price default option for these customers. However, Duquesne Light also believes it is in the public interest to modify its original proposal in order to offer Large C&I customers' day-ahead hourly priced service. This will give Large C&I customers that elect default service a better opportunity to manage their electricity usage and supply costs by providing customers with advanced notice of energy prices. As evidenced by the agreement or non-opposition of EGSs serving these customers, the day-ahead price will not harm the competitive market for these customers.

#### V. MARKET ENHANCEMENTS

In its original filing, Duquesne Light proposed to implement several measures to enhance the competitive market in its service territory. One of these measures is a POR Program. As part of the Settlement of Duquesne Light's recent distribution case at Docket No. R-00061346, Duquesne Light agreed to meet with parties to consider developing a POR Program. As a result of these meetings, Duquesne Light and other parties developed the POR Program that is described in the Direct Testimony of Nancy J.D. Krajovic. Duquesne St. No. 5. The Settlement in this proceeding adopts the POR Program as filed by Duquesne Light.

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<sup>9</sup> Under the terms and conditions of Duquesne Light's tariff, fixed price supply service for Large C&I customers will terminate on May 31, 2007.

Under the POR Program, Duquesne Light will purchase the accounts receivables, without recourse, associated with EGSs sales of retail electric commodity service to residential and Small C&I customers in Duquesne Light's service territory. Duquesne Light will purchase the accounts receivables at a small discount, and then reimburse EGSs for their customer billings regardless of whether Duquesne Light receives payment from customers. The POR Program should enhance the competitive market for residential and Small C&I customers in Duquesne Light's service territory. The POR Program eliminates EGSs' risks for serving credit-troubled customers, and will reduce their costs associated with upfront credit analyses and with collection activities. In addition, the POR Program should expand competitive options for residential and Small C&I customers because under the program, participating EGSs cannot refuse to serve residential and Small C&I customers for credit-related reasons. For these reasons, the POR Program should enhance the competitive market for residential and Small C&I customers in Duquesne Light's service territory.

In its original filing, Duquesne Light also agreed to improve communications with its employees regarding the Code of Conduct by having key employees review the Code of Conduct on an annual basis and commit in writing to its terms. Duquesne St. No. 2, p. 16. This should enhance the competitive market by ensuring that Duquesne Light's employees abide by the Code of Conduct.

In addition, as noted above, the default service plan will enhance the competitive market by eliminating declining energy blocks and supply related demand charges by January 1, 2010. This will promote competition by simplifying rate structures and will make it easier for customers and EGSs to compare rates.

In addition to the market enhancement measures described above, under the Settlement, Duquesne Light has agreed to enter into a collaborative to attempt to develop a MST Program for 5,000 GS and GM customers with maximum measured peak demands of less than 25 kW. Under an MST Program, EGSs can bid to provide generation service to Duquesne Light's default service customers. The bids must be at a discount to approved default service rates. Selected customers are then given an opportunity to take service at a discount to default service rates. Duquesne Light will convene the collaborative no later than three months after the Commission's order approving the Settlement of this proceeding. The collaborative will provide parties a definitive avenue to attempt to develop an MST Program. If the Parties are able to agree on an MST Program, this will provide an additional opportunity for EGSs to enter into or expand their service in Duquesne Light's service territory. If the collaborative does not produce a consensus by April 1, 2008, Direct may file a Petition with the Commission seeking approval of an MST program consistent with the terms described above.

## VI. POWER PROCUREMENT

Under the Settlement, Duquesne Light will procure power for Residential, Small C&I and Lighting customers through an amendment to its full requirements contract with its affiliate, Duquesne Power.<sup>10</sup> As noted in Paragraph 6 of Duquesne Exhibit No. 2, Duquesne Light requests that the Commission approve the amendment to the contract as an affiliate interest agreement. The amendment and the original contract were provided to the Parties in this proceeding in Exhibit NSF-19. Duquesne Power will rely on competitive wholesale market purchases at prevailing market prices in PJM Interconnection, LLC to obtain power for

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<sup>10</sup> In Duquesne Light's POLR III proceeding, the Commission approved the full requirements contract between Duquesne Light and Duquesne Power for a six-year period ending December 31, 2010. *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service*, Docket No. P-00032071, Order entered August 23, 2004 ("POLR III Order"), p. 53.

Duquesne Light's default service customers. Duquesne Power will assume market price, customer switching, load following and other regulatory and business related risks associated with default service supply.

Duquesne Light believes that obtaining power through an amendment to its contract with Duquesne Power is in the public interest. Duquesne Light considered obtaining power through a competitive procurement process, but decided that it was not in the interests of its customers at this time. As explained by Mr. Fisher, wholesale solicitations do not provide the same level of price certainty to retail customers as Duquesne Light's proposal, have not proven to result in higher levels of shopping than currently experienced in Duquesne Light's service territory and may actually harm retail competition. Duquesne St. No. 3, p. 21, 30. Structured solicitations involve numerous decisions regarding process and product design that take considerable time to develop. In addition, as explained above in Section IV, structured solicitations do not always work as anticipated. As a result, competitive solicitations may be more effective if conducted on a state-wide or multi-jurisdictional basis.

Under the default service plan, Duquesne Power is assuming the risks that power prices will increase in the future as opposed to having customers assume these risks. As explained in Mr. Fisher's testimony, Duquesne Power is assuming considerable risks, including but not limited to, risks associated with: (1) increases in wholesale market prices; (2) changing usage levels; (3) changing load shapes; (4) supplier default; and (5) changes in collateral requirements.<sup>11</sup> Duquesne St. No. 3, pp. 44-46. As explained by Mr. Fisher, bidders in

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<sup>11</sup> Paragraph 8 of Duquesne Exhibit No. 2 sets forth the limited conditions under which Duquesne Light may seek a rate increase during the term of the plan. These conditions are designed to protect Duquesne Light in the event that unexpected defaults threaten Duquesne Light's ability to provide reliable service, if regulatory approvals are not obtained or maintained, or if substantial modifications to the plan are required as a result of regulatory requirements.

competitive solicitations assume these risks and seek compensation in their bids for these risks.

Duquesne St. No. 3, p. 46.

Given the current state of market development, Duquesne Light does not believe it is appropriate to have customers assume the risks associated with a competitive solicitation. Recent auctions for Pike County Light & Power Company, Delmarva Power Company and Baltimore Gas & Electric Company have resulted in very large rate increases for customers. *See Policies To Mitigate Potential Electricity Rate Increases*, Docket No. M-00061957, Order entered May 24, 2006. Given these recent examples, Duquesne Light does not believe that it is in the public interest for Residential, Small C&I and Lighting customers to bear these risks at this time.

#### **VII. THE SETTLEMENT RATES REFLECT PREVAILING MARKET PRICES**

Under Section 2803(e)(3) of the Public Utility Code, default service providers must acquire energy at prevailing market prices to serve default service customers. Based upon the plain language of Section 2807(e)(3), the Settlement rates fully comply with the statutory requirement that electric energy shall be purchased at prevailing market prices. As explained above, rates under the Settlement reflect prevailing market prices, at the time of the filing, for a three-year, fixed price full requirements contract. Prevailing market prices were determined by reviewing recent competitive solicitations in Pennsylvania, New Jersey, Maryland and Illinois and adjusting them to reflect Duquesne Light's particular circumstances.

Duquesne Light notes that many of the Parties that filed testimony in this proceeding largely supported or did not oppose the price levels proposed by Duquesne Light. OCA's witness Kahal testified that "The POLR IV prices reflect a reasonable estimate today of the forward 'prevailing market prices.'" OCA St. No. 1-SR, p. 9. OSBA's witness Kalcic used Duquesne Light's rate formulas to develop a three-year fixed rate for Small C&I customers.

OSBA St. No. 1, p. 14. Dominion's witness Butler testified that Duquesne Light's proposed rates were at the lower end of a range of reasonable prices. Dominion St. No. 1, p. 3. Moreover, neither Reliant nor Constellation NewEnergy, Inc. objected to Duquesne Light's proposed rates for Residential, Small C&I or Lighting customers in their testimony. This broad support or non-opposition from consumer groups and EGSs clearly demonstrates that Duquesne Light's energy prices reflect prevailing market prices.

In other proceedings, certain parties have argued that the term "prevailing market prices" require a default service provider to acquire power in the short-term market. Based upon the plain language of the statute, Duquesne Light does not believe that this is a correct interpretation. The statute uses the term "prevailing market prices" in the plural, rather than the singular. There are many prevailing market prices for electricity over different terms, including short-term, medium-term and long-term prices. There also are a wide variety of electricity products, including capacity, load following energy, around-the-clock energy, full-requirements service, derivatives and hedges. These products are available for different lengths of time. Each product for a given term has a prevailing market price at a point in time. Clearly, the existence of multiple products and term lengths in the competitive market demonstrates that prevailing market prices are not limited only to short-term hourly market prices at the time of delivery. Duquesne Light supports tailoring the default service plan to the needs of a particular customer class given the competitive market situation that those customers face. The Settlement provides the most sophisticated customers (approximately 46% of the system load) with day-ahead hourly price default service, while providing larger Small C&I customers with market price default rates that adjust once in 2008 and semi-annually in 2009 and 2010. Meanwhile, Residential and Small C&I customers with peak demands less than 25 kW, who have relatively few competitive

alternatives, are provided default service rates at prevailing market prices that are fixed for three years.

Moreover, in prior proceedings, the Commission has determined that “prevailing market prices” are not limited to short-term prices. In Duquesne Light’s POLR II and POLR III proceedings, the Commission approved three-year terms for each Plan. In the POLR III proceeding, the Commission expressly stated that Duquesne Light’s rates for the three-year period reflected prevailing market prices. *POLR III Order*, entered August 23, 2004. In addition, the Commission indicated that a second three-year term may be appropriate after the POLR III term expired. *POLR III Order*, p. 17. Likewise, the Commission approved a three-year term for UGI’s recent default service plan. *Petition of UGI Utilities, Inc. – Electric Division For Approval To Implement 2007-2009 Default Service Tariff Provisions On One Day’s Advance Notice*, Docket No. P-00062212 (Order entered June 23, 2006). These Orders clearly demonstrate that prevailing market prices are not limited to short term prices.

**VIII. THE SETTLEMENT SHOULD BE APPROVED AS A REASONABLE  
TRANSITION PLAN**

As indicated in its Petition and supporting testimony, Duquesne Light’s default service plan is intended to serve as a bridge to a more competitive market in 2011. The majority of customers in Pennsylvania are subject to generation rate caps that were set during restructuring through the end of 2010. As a result, competitive markets are continuing to develop in Pennsylvania.

The Settlement takes important steps in order to prepare for a more competitive market in 2011. As explained above, Duquesne Light is eliminating declining energy blocks and supply related demand charges for all customers by January 1, 2010. This will prepare customers for more competitive markets by simplifying rate structures, thereby making it easier for customers

and EGSs to compare prices. In addition, the Settlement implements more frequent rate changes for Small C&I customers with a maximum monthly demand of 25 kW or greater. Duquesne Exh. No. 2, pp. 2-3. This will prepare these customers for the possibility of more frequent price changes in 2011.

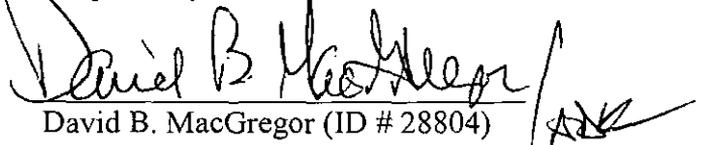
The Settlement is not intended to establish precedent for other default service proceedings. Rather, the terms of the Settlement are appropriate for Duquesne Light's current circumstances and the state of the market today. The terms and conditions of the Settlement are in the public interest because they serve as a reasonable transition from Duquesne Light's current circumstances to a more competitive market in 2011.

#### **IX. CONCLUSION**

Through this default service plan, as modified by the Settlement, Duquesne Light is building upon the success of its POLR III Plan. Under the POLR III Plan, rates for customers are lower than they were 15 years ago, and at the same time, shopping levels in Duquesne Light's service territory are among the highest in the nation. Duquesne St. No. 3, p. 12. Duquesne Light's prior default service plans have been true success stories for the state of Pennsylvania, and Duquesne Light believes that this default service plan will continue and expand upon that success.

Duquesne Light respectfully requests that the ALJ and the Commission approve this Settlement without modification. This Settlement is the result of a thorough examination of Duquesne Light's default service plan, multiple rounds of testimony and compromise by all Parties. Duquesne Light believes that a fair and reasonable compromise has been achieved in this proceeding, as is evident by the fact that all Parties either support or do not oppose the Settlement. Duquesne Light fully supports this Settlement and respectfully requests that the ALJ and the Commission expeditiously review and approve the Settlement without modification.

Respectfully submitted,



David B. MacGregor (ID # 28804)  
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Of Counsel:

Post & Schell, P.C.

Date: May 4, 2007

Attorneys for Duquesne Light Company

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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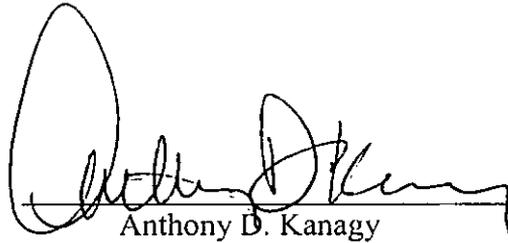
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# ORIGINAL

May 4, 2007

## VIA HAND DELIVERY

James McNulty, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
2nd Fl., 400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

# DOCUMENT FOLDER

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2007 MAY -4 AM 10:49  
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SECRETARY'S BUREAU

Re: Petition of Duquesne Light Company for Approval of  
Default Service Plan for the Period January 1, 2008  
through December 31, 2010, Docket No. P-00072247

Dear Secretary McNulty:

Enclosed are the original and three copies, each, of the statements of the Retail Energy Supply Association and Direct Energy Services, LLC in support of the settlement in the above-referenced matter. As evidenced by the attached Certificate of Service, the parties of record have been served in the manner indicated.

If you have any questions regarding this filing, please contact me.

Sincerely,



Kevin J. Moody

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

KJM/jls  
Enclosures

cc: Cert of Service w/enc.  
Hon. Larry Gesoff w/enc.

HAR:73010.1/MID051-242246

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# ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Petition of Duquesne Light Company :  
for Approval of Default Service Plan :  
for the Period January 1, 2008 :  
through December 31, 2010 :

Docket No. P-00072247

DOCUMENT  
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**DIRECT ENERGY SERVICES, LLC**  
**STATEMENT IN SUPPORT OF SETTLEMENT STIPULATIONS**

Direct Energy Services, LLC ("Direct Energy" or "Direct") requests that the settlement embodied in the stipulations in this matter be approved. Direct Energy believes that Duquesne Light Company's ("Duquesne") Default Service Plan for January 1, 2008 through December 31, 2010 ("POLR IV") as modified by the General Stipulation (Duquesne Exhibit No. 2) and the Market Share Threshold Collaborative Stipulation (Duquesne Exhibit No. 3) will continue the robust retail competition that has developed for Duquesne's Large commercial and industrial ("C&I") customers and provides a basis for beginning the development of sustainable retail competition for Duquesne's Residential and Small C&I customers.

In particular, Direct Energy supports the General Stipulation's provisions for: (i) hourly pricing, with no fixed price option, as the default service rate for Large C&I customers (peak demands equal to or greater than 300 kW) and (ii) the Purchase of Receivables ("POR") program for Residential and Small C&I customers. The record shows that hourly default service pricing has enabled the development of sustained and robust retail competition for Duquesne's Large C&I customers, with about 98 percent of current load provided by competitive suppliers and only 6 out of 871 eligible Large C&I

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customers taking Duquesne's fixed price default service as of December 31, 2006. The General Stipulation continues the market-reflective and market-responsive pricing approach for these customers established in Duquesne's POLR III case by requiring hourly pricing as the only default service rate, and does not backtrack on the transition to a sustainable fully competitive market for these customers.

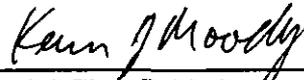
Direct Energy has consistently supported the implementation of POR programs in lieu of fully unbundling electric utilities' bad debt and customer service expenses from their distribution rates. The POR program provided by the General Stipulation will help to mitigate the effects of the three-year fixed prices for Duquesne's Residential customers and the majority of their Small C&I customers by properly utilizing ratepayer dollars collected for customer services in distribution rates. The POR program is one that helps make the competitive playing field more level. The efficiencies gained through the POR program will accrue to customers through lower competitive market offers, and these offers will be made available to a broader spectrum of customers than would have access to competitive offers absent such a program.

Direct Energy believes that the semi-annually adjusted default service rates for the Small C&I customer with peak demands equal to or greater than 25 kW provides for more market-reflective and market-responsive pricing than the annually adjusted rates initially proposed by Duquesne. While Direct Energy has advocated against long-term fixed prices as provided in the General Stipulation for Duquesne's Residential customers and most Small C&I customers (those with peak demands less than 25 kW), Direct believes that the Market Share Threshold Collaborative Stipulation among Duquesne, the Office of Small Business Advocate ("OSBA") and Direct is a moderate tradeoff for the

fixed prices that will provide the opportunity to permit at least one competitive supplier to develop and establish sustainable retail competition for some of the smaller Small C&I customers.

Accordingly, Direct Energy requests that the Commission approve Duquesne's POLR IV plan as modified by the stipulations.

Respectfully submitted,



---

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Dated: May 4, 2007

Attorneys for Direct Energy Services, LLC

**ORIGINAL**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Petition of Duquesne Light Company :  
for Approval of Default Service Plan : Docket No. P-00072247  
for the Period January 1, 2008 :  
through December 31, 2010 :

**RETAIL ENERGY SUPPLY ASSOCIATION  
STATEMENT IN SUPPORT OF  
SETTLEMENT STIPULATION**

The Retail Energy Supply Association (“RESA”)<sup>1</sup> supports, in part, the Stipulation for settlement in this matter and requests that it be approved. RESA submits that the Stipulation represents a comprehensive resolution by a diverse group parties in this proceeding of all issues pertaining to Duquesne’s default service plan for the January 1, 2008 to December 31, 2010 period (hereinafter referred to as “POLR IV”).

RESA is hopeful that, on balance, the default service plan as proposed by Duquesne and modified by the Stipulation will further the Duquesne service territory’s transition to full retail competition for the benefit of the public, customers and retail suppliers. RESA acknowledges that the Stipulation provides for two significant measures that will aid in the continued development of retail competition in the Duquesne service territory: (1) the Stipulation provides for hourly pricing, with no fixed price option, as

---

<sup>1</sup> RESA is a non-profit organization and trade association of retail energy providers who share the common vision that competitive retail energy markets deliver more efficient, customer-oriented outcomes than regulated utility structures. RESA’s members include Consolidated Edison Solutions, Inc; Direct Energy Services, LLC; Hess Corporation; NOCO Electric, LLC; Reliant Energy Retail Services, LLC; Sempra Energy Solutions; Strategic Energy, LLC; SUEZ Energy Resources NA, Inc. and US Energy Savings Corp. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

the default service rate for Large commercial and industrial ("C&I") Customers (peak demands equal to or greater than 300 kW); and (2) the Stipulation provides for the implementation of a pilot Purchase of Receivables ("POR") program for Residential and Small C&I Customers. However, RESA's non-opposition to the remainder of the Stipulation should not be misconstrued.

The Stipulation produces a market-reflective and market-responsive default service pricing structure for the Large C&I market that is conducive to sustainable retail competition; consequently, RESA supports Duquesne's Large C&I Customer POLR IV plan. As experience in the Duquesne service territory shows, hourly pricing has led to the development of robust competition in the Large C&I market segment, and continuing the elimination of the fixed price option from the POLR III period into POLR IV is an important and necessary step toward completing the transition to a fully competitive retail Large C&I market in the Duquesne service territory.

The POR program for Residential and Small C&I Customers is an important step that will help to enable the development of retail competition for these customers by utilizing properly the bad debt expenses and other fees collected in distribution rates and eliminating customers' repetitive payments for customer services. The POR program will enable the competitive market (and Duquesne) to operate more efficiently in these market segments.

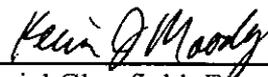
With respect to Small C&I Customer pricing, RESA believes that the Stipulation represents a step forward toward market-responsive default service pricing in providing for semi-annually adjusted default service rates for the medium to large customers in this segment (those with peak demands equal to or greater than 25 kW). Unfortunately,

however, the Stipulation takes “two steps backward” in providing a three-year fixed price – instead of market-reflective and market-responsive pricing – for the majority of the customers in this segment (those with peak demands less than 25 kW). Accordingly, RESA neither supports nor opposes Duquesne’s Small C&I Customer POLR IV pricing plan.

The Stipulation also fails to provide for any degree of market-reflective and market-responsive pricing for Residential customers. While RESA continues to adamantly believe that the single most important factor in stimulating sustainable retail competition is market-reflective and market-responsive default service pricing, RESA is hopeful that the POR program will be a useful market enhancement tool that will help to mitigate the effects of the long-term fixed prices by providing smaller customers, such as Residential customers, greater access to competitive retail market options. Consequently, RESA neither supports nor opposes Duquesne’s Residential Customer POLR IV pricing plan.

For the reasons stated above, RESA requests that the Commission approve Duquesne’s POLR IV plan, as modified by the Stipulation.

Respectfully submitted,



---

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Dated: May 4, 2007

Attorneys for the Retail Energy  
Supply Association

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of the foregoing statement upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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May 4, 2007

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**DOCUMENT  
FOLDER**

RECEIVED  
2007 MAY -4 PM 3:24  
P.A.U.C.  
SECRETARY'S BUREAU

Re: Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 through December 31, 2010; Docket No. P-00072247;  
**STATEMENT IN SUPPORT OF PARAGRAPH 2.E. OF GENERAL STIPULATION, DATED APRIL 25, 2007**

Dear Mr. McNulty:

Enclosed for filing please find an original and three (3) copies of the "Statement in Support of Paragraph 2.E. of General Stipulation" of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. in the above-referenced proceeding. Copies have been served on the parties of record per the attached Certificate of Service. Please date stamp the extra copy and return with our messenger service.

Please do not hesitate to contact me if you have any questions regarding this filing. Thank you for your attention to this matter.

Sincerely,



David P. Zambito, Esquire  
Counsel for Constellation NewEnergy, Inc.  
and Constellation Energy Commodities Group, Inc.

DPZ/kmg  
Enclosures  
cc: Per Certificate of Service

45

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

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2007 MAY -4 11:3:24  
SECRETARY'S BUREAU

Administrative Law Judge Larry Gesoff

Petition of Duquesne Light Company :  
for Approval of Default Service Plan :  
for the Period January 1, 2008 :  
through December 31, 2010 :

Docket No. P-00072247

**STATEMENT IN SUPPORT OF PARAGRAPH 2.E. OF  
GENERAL STIPULATION, DATED APRIL 25, 2007**

Constellation NewEnergy, Inc. ("CNE") and Constellation Energy Commodities Group, Inc. ("CCG") (collectively "Constellation") hereby state the following in support of the adoption by the Pennsylvania Public Utility Commission ("Commission") of Paragraph 2.E. of the General Stipulation, dated April 25, 2007, by and among Duquesne Light Company ("Duquesne Light"), the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, Dominion Retail, Inc., Reliant Energy, Inc., Conservation Consultants, Inc., Citizen Power, Inc., Exelon Corporation, Exelon Generation Company, Inc., Citizens for Pennsylvania's Future, FirstEnergy Solutions Corp., the Pennsylvania Large Energy Users Coalition, Strategic Energy, LLC, Direct Energy, LLC, Retail Energy Supply Association, and Constellation (collectively the "Stipulating Parties"):

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### **Procedural History Relating to Constellation**

1. On January 25, 2007, Duquesne Light filed a petition for Commission approval of a plan for default service for the period from January 1, 2008 through December 31, 2010 ("Default Service Plan" or "Plan"). The Default Service Plan is a comprehensive plan under which Duquesne Light will provide default service to its customers for 2008 through 2010.

2. CNE is authorized to provide electricity and energy-related services to retail customers in Pennsylvania as well as in 15 other states, the District of Columbia and in two Canadian provinces, and serves over 15,000 megawatts of load and over 10,000 customers. CNE markets its services under the Constellation NewEnergy brand name. CNE is a licensed Electric Generation Supplier ("EGS") in the Commonwealth of Pennsylvania pursuant to 66 Pa. C.S. § 2809.

3. CCG provides wholesale power and risk management services to wholesale customers (*e.g.*, distribution utilities, co-ops, municipalities, power marketers, utilities and other large load serving entities), including through participation in load auctions, throughout the United States and Canada, in both regulated and deregulated energy markets.

4. Constellation filed a timely petition to intervene and was granted intervention at the prehearing conference held on February 28, 2007, as memorialized in the Prehearing Order issued on the same date.

5. Constellation actively participated in the discovery process in this proceeding.

6. CNE timely served the following pre-filed testimony upon the Presiding Officer and the Parties: (a) Constellation NewEnergy Statement No. 1 (Direct Testimony of Steven W. Ruback); and, (b) Constellation NewEnergy Statement No. 1-R (Rebuttal Testimony of Steven W. Ruback). Both Statements were admitted into evidence by the Presiding Officer at the

hearing held on April 26, 2007. In his testimonies, Mr. Ruback advocates the immediate elimination of the declining block rate designs for Small Commercial & Industrial (“Small C&I”) customers. *See, e.g.,* Constellation NewEnergy St. No. 1, pp. 3-4.

**Relevant Provisions of Default Service Plan and General Stipulation**

7. Under Duquesne Light’s Default Service Plan (as submitted), the declining block rate design for Small C&I Rate General Service Small (“GS”) is scheduled to be phased-out on January 1, 2008. However, the declining block rate designs for Small C&I Rates General Service Medium (“GM”) and General Service Medium Heating (“GMH”) are scheduled to be phased-out by January 1, 2010.

8. Paragraph 2.E. of the General Stipulation represents a compromise between the Stipulating Parties that allows for a more prompt phase-out of declining block rate designs for Rates GM and GMH where the customer has a maximum registered peak metered demand of 25 kW or greater.<sup>1</sup> As with Rate GS, declining blocks for Rates GM (25 kW or greater) and GMH (25 kW or greater) would be phased out by January 1, 2008. Declining blocks for Rates GM (less than 25 kW) and GMH (less than 25 kW) would still be phased out by January 1, 2010 as originally proposed. Likewise, demand charges for all GM and GMH rates would still be phased out by January 1, 2010. The energy and demand charges nevertheless would be reconciled so that Duquesne Light’s overall rates are revenue neutral.

9. Constellation signed the General Stipulation on April 25, 2007 with the express understanding between the Stipulating Parties that its support of the General Stipulation was limited to Paragraph 2.E. (relating to elimination of declining block rate structures). As part of

---

<sup>1</sup> Paragraphs 2.A. and 2.B. of the General Stipulation creates two sub-classes within Rates GM and GMH: monthly metered demand of less than 25 kW; and, monthly metered demand of 25 kW or greater.

that understanding, Constellation agreed to waive the following specific rights (except as such rights relate to advocacy in support of the terms and conditions of Paragraph 2.E.): (a) to file briefs and reply briefs; (b) to file exceptions and replies to exceptions; (c) to petition for reconsideration or reopening of the Commission's final order; (d) to appeal the Commission's final order; and, (e) to initiate or otherwise participate in any other proceeding before the Commission challenging the default service plan approved by the Commission. Constellation's waiver of these rights does not indicate support of the other terms and conditions of the General Stipulation or the subsequent Stipulations (relating to a market share threshold program and day-ahead pricing). Constellation agreed to Paragraph 2.E. and a waiver of the enumerated rights only in the context of the instant proceeding. The General Stipulation is the product of compromise and, under its express terms, does not preclude Constellation from, *inter alia*: (a) taking other positions in proceedings of other public utilities; (b) taking other positions in Commission policymaking or rulemaking proceedings that do not challenge the default service plan approved by the Commission; (c) advocating in any proceeding before any forum in support of a default service plan approved by the Commission that is inconsistent with the General Stipulation; and, (d) challenging the default service plan (except through appeal) in forums other than the Commission.

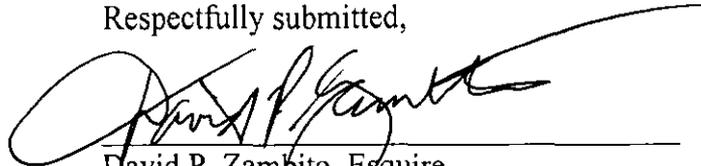
**Support of Paragraph 2.E.**

10. Constellation supports Paragraph 2.E. of the General Stipulation as a reasonable step toward the elimination of declining block rate designs for Small C&I customers. The elimination of declining blocks for Rates GM (25 kW or greater) and GMH (25 kW or greater)

on January 1, 2008 will provide for greater price transparency, simplicity and understandability; and thereby promote competition between the incumbent utility and non-utility suppliers.

WHEREFORE, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. respectfully request that the Pennsylvania Public Utility Commission adopt Paragraph 2.E. of the General Stipulation.

Respectfully submitted,



David P. Zambito, Esquire  
Louise A. Knight, Esquire  
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Dated: May 4, 2007

Counsel for Constellation NewEnergy, Inc. and  
Constellation Energy Commodities Group, Inc.

**CERTIFICATE OF SERVICE**  
**(Docket No. P-00072247)**

I hereby certify that I have this day served the foregoing Constellation Statement in Support of Paragraph 2.E. of General Stipulation upon the parties listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA E-MAIL AND OVERNIGHT DELIVERY**

The Honorable Larry Gesoff  
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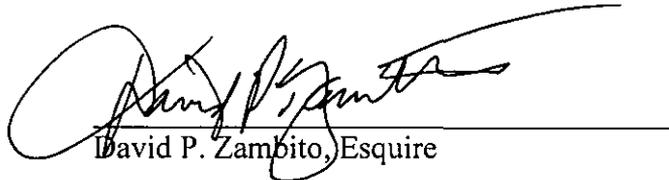
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Dated this 4<sup>th</sup> day of May 2007.



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May 4, 2007

**VIA HAND-DELIVERY**

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Harrisburg, PA 17120

**ORIGINAL**

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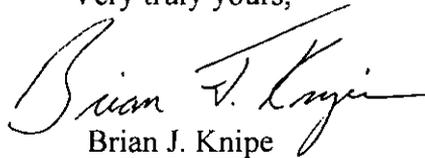
Re: Petition of Duquesne Light Company For Approval of Default Service  
Plan For The Period January 1, 2008 Through December 31, 2010, Docket  
No. P-00072247

Dear Secretary McNulty:

I have enclosed for filing an original and three (3) copies of the Statement of  
Reliant Energy, Inc. in Support of Settlement in the above-referenced matter. Copies have been  
served upon all parties of record as per the attached Certificate of Service.

Please contact me if you have any questions.

Very truly yours,



Brian J. Knipe

For BUCHANAN INGERSOLL & ROONEY, P.C.

**DOCUMENT  
FOLDER**

BJK/eh

Enclosures

cc: The Honorable Larry Gesoff (w/encls.)  
Certificate of Service (w/encls.)

35

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

Petition of Duquesne Light Company :  
For Approval of Default Service Plan : Docket No. P-00072247  
For the Period January 1, 2008 :  
Through December 31, 2010 :

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PA 1110  
SECRETARY'S BUREAU

**STATEMENT OF RELIANT ENERGY, INC.  
IN SUPPORT OF SETTLEMENT**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE LARRY GESOFF:

Reliant Energy, Inc. ("Reliant") hereby submits this Statement in Support of the Settlement submitted by the parties to this proceeding with respect to Duquesne Light Company's ("Duquesne Light" or "Company") Default Service Plan for the period January 1, 2008 through December 31, 2010 ("Default Service Plan"). The Settlement consists of three stipulations:

1. A General Stipulation executed by nearly all parties;<sup>1</sup>
2. A stipulation among Duquesne Light, the Office of Small Business Advocate ("OSBA") and Direct Energy Services, LLC establishing a Market Share Threshold collaborative;<sup>2</sup> and
3. A stipulation among Duquesne Light, several licensed electric generation suppliers ("EGSs") and the Duquesne Industrial Intervenors ("DII") which amends the General Stipulation so that Duquesne Light will provide a day ahead hourly priced default service for Large Commercial and Industrial ("C&I") customers<sup>3</sup> rather than a real-time hourly priced service.<sup>4</sup>

As a result of these three stipulations, every party either supports or does not oppose the various terms of the Settlement.

**DOCUMENT  
FOLDER**

**DOCKETED**  
MAY 7 - 2007

<sup>1</sup> Duquesne Light Ex. 2.

<sup>2</sup> Duquesne Light Ex. 3.

<sup>3</sup> The term "Large C&I customer" refers to customers taking service on Rate Schedules GL, GLH, L and HVPS.

<sup>4</sup> Duquesne Light Ex. 4.

The parties represent a wide variety of competing interests. Reliant's interest is in developing terms and conditions of default service which would allow for the transition to a robust, sustainable competitive retail electric market in Duquesne Light's service territory. Through its subsidiaries, Reliant supplies electricity as a retailer in numerous jurisdictions and is licensed as an EGS in Pennsylvania.

Reliant, like most of the parties, supports certain terms while merely not opposing others. As explained below, however, Reliant believes the Settlement is in the public interest because it balances the parties' competing interests in a way that is fair and reasonable in the context of a non-precedential Default Service Plan which is designed to transition customers to a more competitive electric market in 2011.

#### **The Settlement is the Product of Extensive Negotiations and Significant Compromise**

The Settlement resulted from extensive negotiations which began even before Duquesne Light filed its Default Service Plan. The Company engaged in discussions with parties to develop a plan that carefully balanced the parties' competing interests while observing the Choice Act's<sup>5</sup> mandate to move Duquesne Light forward to electric competition.<sup>6</sup> To Reliant's knowledge, this is the first time Duquesne Light has engaged EGSs in discussions regarding a reasonable approach to implementing competitive electric markets. Indeed, as a result of the Company's efforts before the filing of its Default Service Plan for the 2008-2010 period, Reliant and Dominion Retail, Inc. ("Dominion"), two licensed EGSs, executed a Default Service Letter Agreement with Duquesne Light in which the EGSs agreed "to support, or at a minimum not to

---

<sup>5</sup> The Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801-2812 ("Choice Act").

<sup>6</sup> Petition ¶ 7.

oppose," the basic structure of Duquesne Light's Default Service Plan.<sup>7</sup> These parties recognized the Commission's policy of encouraging settlements and realized interests were better served by attempting to reach settlement rather than engaging in unnecessary and protracted litigation.

After the Company filed its Default Service Plan, negotiations among the parties continued while they engaged in discovery, served direct, rebuttal and surrebuttal testimony, and participated in an evidentiary hearing on April 26, 2007. Reliant commends Duquesne Light for its willingness to work with the parties to reach a consensus, and encourages other utilities to follow Duquesne Light's example. Reliant has engaged in similar collaborative efforts with utilities in the past and intends to embrace this approach in future proceedings, when appropriate.

Also, the Settlement is the product of significant compromises by the parties. The stipulations acknowledge this by expressly stating that they are the result of compromise and do not necessarily represent any party's litigation position.<sup>8</sup> Also, it is important to recognize that the Settlement may not be cited as precedent in future proceedings.<sup>9</sup> Further, Duquesne Light has emphasized in testimony that the Default Service Plan is "an interim plan that is designed to transition customers to a more competitive market in 2011 when rate caps for all Pennsylvania customers will expire."<sup>10</sup>

With these important qualifications, the transition to competitive electric markets requires negotiation and compromise by the parties rather than protracted litigation. While Reliant, Duquesne Light and others may have departed from their desired optimal "end state" goals for the structure of default service in building consensus, Reliant believes the Settlement is a reasonable transition plan for the Company's service territory.

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<sup>7</sup> See Exhibit FJE-1R, attached to Duquesne St. No. 2-R.

<sup>8</sup> See Duquesne Light Ex. 2 ¶ 9.D; Duquesne Light Ex. 4.

<sup>9</sup> Duquesne Light Ex. 2 ¶ 9.D.

<sup>10</sup> Duquesne Statement No. 2-R at 7:19-21.

## **The Settlement Continues to Move Duquesne Light Toward Competitive Electric Markets**

While no Pennsylvania electric distribution company has fully competitive retail electric markets for all customers, the Commission has recognized that Duquesne Light's retail electric markets are the most developed in Pennsylvania.<sup>11</sup> The Settlement promises to keep the Company moving in the right direction for Large C&I customers and Small C&I customers<sup>12</sup> with maximum registered peak metered demands of 25 kW or greater.

The Settlement provides for market-responsive default service pricing for Large C&I customers. Consistent with the Default Service Letter Agreement with Reliant and Dominion, Duquesne Light's Default Service Plan proposed a single real-time hourly priced service to Large C&I customers. In response to issues raised by DII, Duquesne Light and the licensed EGSs entered into a stipulation with DII that modifies the Default Service Plan to provide Large C&I customers with a day ahead hourly priced service instead.<sup>13</sup> While Reliant would prefer real-time hourly priced service for Large C&I customers, the stipulation facilitated a settlement among all the parties and therefore Reliant supports the modification in the context of this non-precedential interim Default Service Plan.

Duquesne Light's provision of a single hourly-priced default service to Large C&I customers is critical to Reliant's participation in the Settlement. In its decision in the Duquesne Light *POLR III* matter,<sup>14</sup> the Commission noted that hourly priced service provides the most freedom for customers to move into the competitive market, in accordance with the mandates of

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<sup>11</sup> See, e.g., *Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2)*, Docket No. L-00040169, Advance Notice of Final Rulemaking Order entered Feb. 9, 2007 at 21 n.10.

<sup>12</sup> The term "Small C&I customer" refers to customers taking service on Rate Schedules GS/GM and GMH.

<sup>13</sup> Duquesne Light Ex. 4.

<sup>14</sup> *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service*, Pa. P.U.C. Docket No. P-00032071 ("*POLR III*"), Order entered Aug. 23, 2004, at 39-40.

the Choice Act. The Commission further correctly recognized that a fixed price option should only be available to Large C&I customers for a limited time.<sup>15</sup>

Subsequent experience in Duquesne Light's service territory shows that Large C&I customers are able to utilize the many advantages of competitive offers when given the appropriate price signals.<sup>16</sup> Experience in PJM shows that Large C&I customers are sophisticated enough to manage hourly priced default service, and in fact much smaller customers have requested and are served on hourly priced service.<sup>17</sup> The experience in Duquesne Light's service territory and in other states shows that more robust competition to serve Large C&I customers will develop among an increasing number of EGSs if the default service price is consistently a market price and the utility offers no fixed price option.<sup>18</sup> If customers do not desire hourly priced service, the competitive market provides alternatives, frequently at savings or with value added services.<sup>19</sup> Indeed, Reliant offers Large C&I customers in Duquesne Light's service territory a fixed price product.<sup>20</sup> Accordingly, the Settlement continues to build upon the success of hourly default service pricing for large C&I customers seen in the Duquesne Light service territory.

The Settlement also begins to move the largest Small C&I customers toward market-responsive default service pricing. Consistent with the Default Service Letter Agreement, Duquesne Light initially proposed to provide fixed-price default service for Small C&I customers with annual adjustments to reflect changes in wholesale market prices. The General Stipulation modifies the proposal by dividing Small C&I customers into those with maximum

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<sup>15</sup> See *POLR III*, Opinion and Order on Reconsideration entered Oct. 5, 2004, at 24.

<sup>16</sup> Reliant St. No. 1 at 9:10-12.

<sup>17</sup> Id. at 13:1-21.

<sup>18</sup> Id. at 8:19 to 9:2; 9:9 to 11:2.

<sup>19</sup> See Id. at 11:11 to 12:23.

<sup>20</sup> Id. at 14:1-5.

registered peak metered demands of less than 25 kW and those with maximum registered peak metered demands of 25 kW or greater. Duquesne Light will offer the smaller customers fixed rates for the 2008-2010 period. The Company will offer the larger customers fixed rates for 2008, subject to market price rate adjustments every six months for supply delivered in calendar years 2009 and 2010.<sup>21</sup> While Reliant regards the elimination of market price rate adjustments for Small C&I customers below 25 kW as a substantial concession, it does not oppose this modification during this transition time period as a means of building consensus.

**The Settlement Conserves Resources and the Process Used  
to Build Consensus Will Benefit Customers**

In addition, the stipulations will conserve the Commission's and the parties' time and resources. Further, they observe the Commission's policy of encouraging settlements.<sup>22</sup> Indeed, the Commission's *policy statement on settlements in major rate cases* confirms that the results achieved from a negotiated settlement are preferable to those achieved through fully litigated proceedings: "[i]n the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding."<sup>23</sup>

Reliant also believes the Settlement should be approved because of the process Duquesne Light used to build consensus. The Company's ongoing dialogue with licensed EGSs and other stakeholders over the course of several months, most importantly while the Default Service Plan was in development, not only resulted in a settlement among all parties but improved communications among the parties as well. Building working relationships among the parties is

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<sup>21</sup> Duquesne Light Ex. 2 ¶ 2.A-D.

<sup>22</sup> 52 Pa. Code § 5.231.

<sup>23</sup> 52 Pa. Code § 69.401.

critical to the future development of the retail electricity market in Duquesne Light's service territory. Developing robust electric competition will take time and require substantial work and cooperation among all market participants. The success of this effort, however, will inure to the benefit of all stakeholders, including customers who will realize the benefits intended by the Choice Act. Duquesne Light's approach is commendable and Reliant respectfully requests that the Administrative Law Judge and the Commission embrace this approach and include statements in their decisions encouraging other utilities to use Duquesne Light's approach as a blueprint.

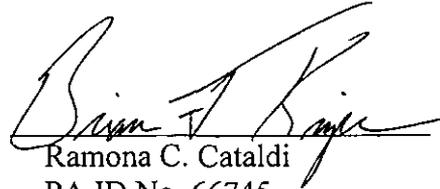
## Conclusion

While Reliant departed from its ideal default service design for Duquesne Light's territory in negotiating the Settlement, it believes the Settlement reasonably balances several competing interests while continuing to move Duquesne Light forward in its transition to more competitive retail electric markets in 2011 as required by the Choice Act. For the reasons explained above, Reliant respectfully requests that the Administrative Law Judge and the Commission review and approve the Settlement.

Respectfully submitted,

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Attorneys for Reliant Energy, Inc.

Dated: May 4, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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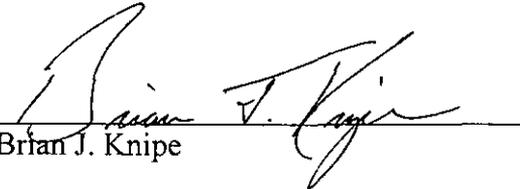
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Dated this 4th day of May, 2007



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May 4, 2007

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

**VIA HAND DELIVERY**

**Re: Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 Through December 31, 2010; Docket No. P-00072247**

Dear Secretary McNulty:

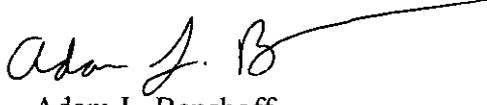
Enclosed for filing with the Commission are the original and three (3) copies of the Statement of the Duquesne Industrial Intervenors Regarding the Day-Ahead Stipulation in the above-referenced proceeding.

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

**DOCUMENT  
FOLDER**

Very truly yours,

MCNEES WALLACE & NURICK LLC

By   
Adam L. Benshoff

Counsel to the Duquesne Industrial Intervenors

ALB/lhi

Enclosures

c: Honorable Larry Gesoff (via e-mail and first class mail)  
Certificate of Service

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S BUREAU

Petition of Duquesne Light Company for :  
Approval of Default Service Plan for the : Docket No. P-00072247  
Period January 1, 2008 through :  
December 31, 2010 :

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**STATEMENT OF THE DUQUESNE INDUSTRIAL INTERVENORS  
REGARDING THE DAY-AHEAD STIPULATION**

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The Duquesne Industrial Intervenors ("DII") hereby submit this Statement regarding the Day-Ahead Stipulation in the above-captioned proceeding.<sup>1</sup> Duquesne Light Company ("Duquesne Light"), the Duquesne Industrial Intervenors ("DII"), Reliant Energy, Inc. ("Reliant"), Dominion Retail, Inc. ("Dominion"), Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively "Constellation"), Direct Energy Services, LLC ("Direct"), Strategic Energy, LLC ("Strategic"), the Retail Energy Supply Association ("RESA"), and the Pennsylvania Large Energy Users Coalition ("PALEUC") (collectively, "Stipulating Parties") are filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Day-Ahead Stipulation to resolve all outstanding issues with regard to Duquesne Light's Large Commercial and Industrial ("Large C&I") Provider of Last Resort ("POLR") Plan. As set forth in more detail below, while DII is a "non-opposing party" to the Day-Ahead Stipulation, DII supports the Day-Ahead Stipulation as a reasonable resolution of this matter for the limited purpose of Duquesne Light's POLR plan.

---

<sup>1</sup> While DII is not a signatory to Stipulations No. 1 or No. 2, DII is specifically in non-opposition to the remainder of the settlement.

**DOCUMENT  
FOLDER**

**DOCKETED**  
MAY 07 2007

## I. REASONS SUPPORTING APPROVAL OF DAY-AHEAD STIPULATION

The Day-Ahead Stipulation states that Duquesne Light will provide a day ahead hourly priced service as its POLR option for Large C&I customers during the three year POLR period covered in the above-captioned proceeding. DII believes that offering a day ahead hourly priced service, as opposed to only the real-time hourly priced service proposed in Duquesne Light's original filing, will be beneficial to customers and is in the public interest. The Commission is poised to make the critical determinations regarding the POLR options that will be available on a statewide basis in the POLR Rulemaking at Docket No. L-00040169, and the proposed Default Service Policy Statement at Docket No. L-00070183. As Duquesne Light's testimony recognizes, the design for a Large C&I fixed price product as previously mandated by the Commission has resulted in extremely high prices for the service. See Direct Testimony of Morgan K. O'Brien, Duquesne Statement No. 1 ("Duquesne St. 1"), pp. 18-19. Until the Commission examines this issue on a statewide basis, as it will do in the previously-referenced dockets, it is not an efficient allocation of the parties' resources to continue litigation over whether the inflated fixed price option should be offered to Large C&I customers in the Company's next POLR plan.

DII continues to believe that the *Electricity Generation Customer Choice and Competition Act* ("Competition Act") contemplates that the Company's POLR service must be structured to provide a real competitive alternative to Electric Generation Suppliers ("EGS") to act as a discipline on the offers made by the marketplace; however, at a minimum, POLR service must serve the needs of Large C&I customers who cannot obtain competitive supply due to EGS defaults, delays in contracting, or financial circumstances that make a customer undesirable for EGSs to serve. In such circumstances, it is important to recognize that not all Large C&I customers are able to respond to hourly market prices. The day ahead hourly service will afford

a greater number of customers the option to respond to market prices; however, even this option does not provide the degree of cost and budget certainty that is needed by Pennsylvania's business and manufacturers.

As a result, DII has signed as a "non-opposing party" to the Day-Ahead Stipulation. As DII has argued in this proceeding, as well as various other proceedings at the Commission, a fixed price POLR service option should be available to all customers because real-time hourly priced service, and even day ahead hourly priced service, is very complex, and subjects customers to the constantly changing, volatile market. For those Large C&I customers who are unable to respond to hourly market forces, the importance of a fixed price POLR option, in such unfortunate events as an EGS default, is immeasurable. For this and various other reasons, while DII supports the inclusion of a day-ahead POLR service in lieu of only an hourly priced service, DII's position is as a "non-opposing party" to the Day-Ahead Stipulation.

## II. CONCLUSION

**WHEREFORE**, the Duquesne Industrial Intervenors respectfully request that the Commission approve the Day-Ahead Stipulation as submitted in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Counsel to the Duquesne Industrial  
Intervenors

Dated: May 4, 2007

## CERTIFICATE OF SERVICE

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

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**Certificate of Service**  
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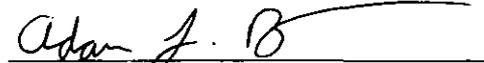
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**Certificate of Service**  
**Docket No. P-00072247**  
**Page 3**

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Adam L. Benshoff

Dated this 4<sup>th</sup> day of May 2007, at Harrisburg, Pennsylvania.

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May 4, 2007

MAY - 4 2007

VIA ELECTRONIC & FIRST CLASS MAIL

The Honorable Larry Gesoff  
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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

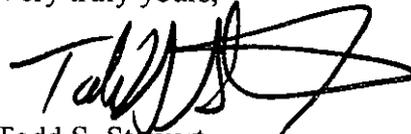
RE: Petition of Duquesne Light Company for Approval of Default Service Plan for the  
Period January 1, 2008, through December 31, 2010; Docket No. P-00072247;  
**DOMINION RETAIL STATEMENT OF SUPPORT OF STIPULATIONS**

Dear Judge Gesoff:

Enclosed please find an original and one copy of Dominion Retail Statement of Support of Stipulations in the above-captioned matter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Todd S. Stewart  
Counsel for Dominion Retail, Inc.

TSS/bks  
Enclosure

cc: James J. McNulty, Secretary (Cover Letter and Certificate of Service)  
Per Certificate of Service

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Todd S. Stewart

Dated this 4<sup>th</sup> day of May, 2007.



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

IN REPLY PLEASE  
REFER TO OUR FILE

May 18, 2007

**ORIGINAL**

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

Re: Petition of Duquesne Light Company for Approval of Default Service Plan  
for the Period of January 1, 2008 Through December 31, 2010

Docket No. P-00072247

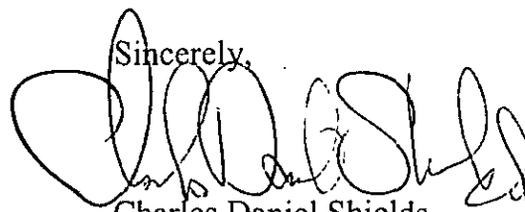
Dear Mr. McNulty:

Please be advised that the Office of Trial Staff will not be filing **Exceptions** in the  
above-captioned matter.

Copies of this correspondence are being served on all active parties of record.

**DOCUMENT  
FOLDER**

**DOCKETED**  
MAY 21 2007

Sincerely,  


Charles Daniel Shields  
Senior Prosecutor  
Attorney ID #29363  
Office of Trial Staff

CDS: clp  
cc: Parties of Record

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Petition of Duquesne Light Company for :  
Approval of Default Service Plan for the : Docket No. P-00072247  
Period of January 1, 2008 Through :  
December 31, 2010 :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Correspondence**, dated  
May 18, 2007, either personally, by first class mail, electronic mail, express mail and/or  
by fax upon the persons listed below:

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