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WITNESS INDEX

WITNESSES

DIRECT CROSS REDIRECT RECROSS

(None.)

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EXHIBIT INDEX

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>FOR EVIDENCE</u>
(None.)		

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P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE LARRY GESOFF: This is the
3 time and place set by the Pennsylvania Public Utility
4 Commission for a prehearing conference in the petition of
5 Duquesne Light at Docket No. P-00072247, a proceeding also
6 known as Duquesne Light POLR, P-O-L-R, IV.

7 I am Larry Gesoff, the administrative law judge
8 assigned to this proceeding, and I'm going to go over what I
9 have entered onto the OALJ hearing report, the green sheet,
10 based upon the petitions to intervene that I have received.

11 So first, Mr. Gang and Mr. Kanagy, are you there?

12 MR. KANAGY: Yes.

13 MR. MacGREGOR: David MacGregor is here, Your Honor,
14 rather than Mr. Gang.

15 JUDGE GESOFF: Okay. Is Mr. Kanagy there?

16 MR. MacGREGOR: Yes.

17 JUDGE GESOFF: Mr. Jack is here in the hearing room
18 with me, Gary Jack. Mr. Shields, Charles Daniel Shields,
19 and Robert Eckenrod of Office of Trial Staff?

20 MR. SHIELDS: Yes, Your Honor, this is Mr. Shields.
21 Mr. Eckenrod will not be on this case. So I'd ask the
22 parties and Your Honor to remove him from the certificate of
23 service list, please.

24 JUDGE GESOFF: Thank you. For Office of Consumer
25 Advocate, David Evrard and Tanya McCloskey?

1 MR. EVRARD: Yes, Your HONor, just me here today,
2 David Evrard. Tanya is otherwise occupied.

3 JUDGE GESOFF: But she should remain on the list;
4 correct?

5 MR. EVRARD: Yes.

6 JUDGE GESOFF: Steven Gray on behalf of OSBA?

7 MS. WEBB: No, Your Honor. This is Sharon Webb. I'll
8 be doing this case for the OSBA.

9 JUDGE GESOFF: Oh, okay.

10 MS. WEBB: I would request, sir, that all the parties
11 strike Mr. Lloyd's name from the e-mail service list and
12 just leave my e-mail on it.

13 JUDGE GESOFF: I had Mr. Gray on it. So I'll take his
14 off?

15 MS. WEBB: Yes, sir.

16 JUDGE GESOFF: Okay.

17 MS. WEBB: Thank you.

18 JUDGE GESOFF: And for Citizens Power, who is
19 available for Citizens Power?

20 MR. McCAFFREY: Yes, Your Honor, if we could have
21 myself on the--

22 JUDGE GESOFF: Who is myself?

23 MR. McCAFFREY: I'm sorry. I'm John McCaffrey from
24 Stinson Morse & Hecker. My e-mail is jmccaffrey@stinson.
25 com, and David Hughes is the executive director of Citizens

1 Power. His e-mail address is hughes@citizenspower.com.

2 JUDGE GESOFF: How about Mr. Reiter and Ms. Daly?

3 MR. McCAFFREY: Not necessary for them to be on, Your
4 Honor.

5 JUDGE GESOFF: All right. And for Exelon Corporation
6 and Exelon Generation Company, L.L.C.

7 MS. NEWALL: Yes, Your Honor. This is Adrian Newall.

8 JUDGE GESOFF: And how about Mr. Murphy?

9 MS. NEWALL: Actually keep him on the service list.
10 He is not at this conference this morning, but I'd like him
11 to be maintained on the service list.

12 JUDGE GESOFF: For Constellation NewEnergy, Inc. and
13 Constellation Energy Commodities Group, Inc., David I. Fein?
14 Is he there? He's not. Actually I was supposed to reach
15 Mr. Gupta who is also for that same party, Divesh Gupta, but
16 I could not reach him. I'm going to leave them on the
17 hearing report list because they are parties.

18 Todd S. Stewart on behalf of Dominion Retail?

19 MR. STEWART: Good morning, Your Honor, yes.

20 JUDGE GESOFF: Good morning. Next is Dominion Retail,
21 Gary A. Jeffries.

22 MR. STEWART: Mr. Jeffries is not here with us this
23 morning, but I would ask that he remain on the service list,
24 Your Honor.

25 JUDGE GESOFF: Who is speaking?

1 MR. STEWART: Todd Stewart. I'm sorry.

2 JUDGE GESOFF: Let's see if I have you. I should have
3 you down, but I don't. Oh, here you are. Okay. Yes, Todd
4 Stewart. I'm sorry. And for Citizens for Pennsylvania's
5 Future, George Jugovic is in the hearing room with me. For
6 Reliant Energy, Romona Cataldi and Brian Knipe?

7 MR. KNIPE: Good morning, Your Honor. This is Brian
8 Knipe for Reliant Energy. Ms. Cataldi is not here this
9 morning. She could be removed from the service list.

10 JUDGE GESOFF: Okay. And for Retail Energy Supply
11 Association and Direct Energy Services, L.L.C., Mr.
12 Clearfield and Mr. Moody?

13 MR. MOODY: Yes, Your Honor. Good morning. It's Mr.
14 Moody. And Mr. Clearfield is not here, but he should remain
15 on the service list.

16 JUDGE GESOFF: Okay. Strategic Energy, L.L.C., Erin
17 Creahan?

18 MS. CREAHAN: Yes, Your Honor.

19 JUDGE GESOFF: She's here in the hearing room. And
20 for Duquesne Industrial Intervenors, Ms. Polecek and Mr.
21 Benschhoff?

22 MR. BENSHOFF: Good morning, Your Honor. This is Mr.
23 Benschhoff. Ms. Polecek is not in the hearing room with me,
24 but if she could please remain on the service list we would
25 appreciate it.

1 JUDGE GESOFF: Okay. Pennsylvania Large Energy Users
2 Coalition, Ronald Shaffer? I hear no response. How about
3 Steven S. Goldenberg? No response. For Pennsylvania, okay,
4 how about Paul Forshay? No response.

5 And in the hearing room with me is Kathy Kolich on
6 behalf of FirstEnergy Solutions Corporation, and there was
7 one more that I just got today. That would be Nicholas
8 Pasciullo on behalf of--

9 MR. PASCIUULLO: Conservation Consultants,
10 Incorporated.

11 JUDGE GESOFF: --Conservation Consultants,
12 Incorporated filed a petition to intervene. It's dated the
13 26th. I hadn't received it. Mr. Pasciullo brought one into
14 the hearing room.

15 Okay. Anyone else that I haven't mentioned?

16 MR. MacGREGOR: No, Your Honor, just one thing. This
17 is David MacGregor. I don't know if we clarified it or not,
18 if we can have myself, Mr. Kanagy, and Mr. Jack on the list.

19 JUDGE GESOFF: Yes.

20 MR. MacGREGOR: Great. Thank you.

21 JUDGE GESOFF: As well as Mr. Gang?

22 MR. MacGREGOR: That's not necessary.

23 JUDGE GESOFF: Now, having done that, let me go over
24 my e-mail distribution list to see if there are lots more
25 names that I had on it that I can delete. Here it is. I'm

1 going to delete the following:

2 Paul Bonney, Thomas Brogan, Scott Debroff, Jaime
3 Dibble, Craig Doll, Martha Duggan, Denise Forster, John
4 Hanger -- but I'm not going to delete David Hughes --
5 Theodore Jobes, David Kleppinger, Peter Meier, Timothy
6 Merrill, Thomas Mullooly, John Munsch, Edwin Ogden, John
7 Povilaitis, Michael Reid, Gregory Rhodes, Scott Rubin,
8 Stuart Sacks, Geoffrey Sawyer, Allan Seltzer, Ward Smith,
9 James Steffes, Mark Sundback, Matthew Totino, Joseph Vullo,
10 Kenneth Wiseman, and Lisa Yoho.

11 We're going to go over the petitions to intervene very
12 quickly, motions pro hac vice, talk about electronic service
13 of documents, changes to the discovery rules, protective
14 order, public input hearings, witness schedule, common brief
15 outline, and a litigation schedule, and anything else the
16 parties wish to discuss.

17 First of all, Mr. MacGregor, does Duquesne Light have
18 any objections to any of the petitions to intervene?

19 MR. MacGREGOR: No, we do not with one exception, Your
20 Honor. We have not seen the one that you just identified,
21 Conservation Consultants or whatever it was. I don't know
22 whether we oppose that or not since I haven't seen it. I
23 would like an opportunity to review it.

24 JUDGE GESOFF: Okay. They're basically concerned with
25 the LIRA program. Okay. With that exception the following

1 petitions to intervene are granted:

2 Dominion Retail, Inc.; Citizens Power, Inc.; Exelon
3 Corporation and Exelon Generation Company, L.L.C.; Citizens
4 for Pennsylvania's Future; Constellation NewEnergy, Inc. and
5 Constellation Energy Commodities Group, Inc.; Reliant
6 Energy, Inc.; Retail Energy Supply Association; Direct
7 Energy Services, L.L.C.; Strategic Energy, L.L.C.; Duquesne
8 Industrial Intervenors; Pennsylvania Large Energy Users
9 Coalition; and FirstEnergy Solutions Corp.

10 Have I left any out? Okay. Now, motions pro hac
11 vice, Kelly A. Daly has filed such a motion for Mr. Reiter,
12 Harvey L. Reiter, and John E. McCaffrey to represent
13 Citizens Power, Inc. Any objection? Granted.

14 Brian J. Knipe has filed one for David I. Fein and
15 Divesh Gupta to represent Constellation NewEnergy, Inc. and
16 Constellation Energy Commodities Group, Inc. Any objection?
17 That's admitted.

18 And Ronald J. Shaffer has filed one for Paul F.
19 Forshay and Steven S. Goldenberg to represent the
20 Pennsylvania Large Energy Users Coalition. Any objection?
21 That's admitted.

22 Now, about electronic service of documents, can we
23 agree that electronic service of documents meets the service
24 requirements under the Commission's regulations as long as a
25 hard copy of the document is sent by first class mail and

1 electronic service must be perfected by -- and this is up
2 for grabs -- 5:00 p.m. on the due date? Any response?

3 MR. MacGREGOR: That's fine, Your Honor.

4 COURT REPORTER: Who was that?

5 JUDGE GESOFF: That was Mr. MacGregor, I believe.

6 MR. MacGREGOR: Yes. Sorry.

7 JUDGE GESOFF: In Harrisburg please say your name
8 before you speak so the court reporter knows who you are.

9 So the company has filed some changes or at least in
10 its prehearing memorandum it has suggested changes to the
11 Commission's regulations. Is there anyone that objects to
12 that? Okay. They are going to be incorporated into my
13 prehearing order.

14 If there is a need for protective order I'm assuming
15 the company will submit one.

16 MR. MacGREGOR: That's correct, Your Honor.

17 JUDGE GESOFF: Okay. I perceive no need for public
18 input hearing based upon the prehearing memorandum. So I
19 will not schedule one unless notified otherwise by any of
20 the parties.

21 When we have a witness schedule there should be no
22 holes in the schedule. I don't think there will because
23 we're only going to have a couple days of hearings set
24 aside.

25 If there are multiple issues that are presented I will

1 have the parties agree to a common brief outline which
2 everyone will follow so that when I get all the briefs in I
3 don't have to hunt for an issue. I know a judge recently
4 had to write a decision where the companies did not or the
5 parties did not follow a common brief outline and he was
6 tearing his hair out.

7 I want to move on to the litigation schedule unless
8 anyone has anything they wish to raise before that.

9 MR. McCAFFREY: Your Honor, this is John McCaffrey on
10 behalf of Citizens Power. Just a clarification. David
11 Hughes would like to remain on the electronic service list,
12 but he does not wish and does not need to receive any hard
13 copies of documents to the extent that they're served
14 electronically.

15 JUDGE GESOFF: Okay. Thank you. Now, the company has
16 submitted a litigation schedule, but Reliant's witness is
17 unavailable at the time listed for the hearings. So has
18 that been ironed out at all, Mr. MacGregor?

19 MR. MacGREGOR: Yes, Your Honor, I believe it has.
20 I've spoken with Mr. Knipe on a couple of occasions. And
21 what we would like to try to do is essentially stay with the
22 Duquesne Light Company proposed schedule but have Reliant
23 file its surrebuttal testimony, which for all other parties
24 is scheduled on April 20th, to file that a day early on
25 April 19th.

1 And then we would, subject to what Your Honor would
2 prefer, we could have a hearing telephonically or in person
3 in Pittsburgh on Monday the 23rd or on the morning of the
4 24th to deal with cross-examination of Reliant's witness, if
5 necessary.

6 I would note that as set forth in our testimony and in
7 our filing we have a settlement agreement with Reliant that
8 resolves the basic structure of the Duquesne plan and that
9 Reliant supports the basic structure.

10 There are open issues that they may address, but we
11 don't anticipate at this time that there would be a need for
12 cross-examination. But we can't know that until we see the
13 testimony and other parties may have questions and Your
14 Honor may have questions.

15 So we could just try to squeeze it in somewhere on the
16 23rd or early in the 24th in Harrisburg before your T.W.
17 Phillips hearing.

18 JUDGE GESOFF: Well, that assumes that that proceeding
19 does not settle, and there's a good likelihood that it will,
20 which means that I wouldn't be coming in until the 25th.

21 MR. MacGREGOR: Or we could then be in Pittsburgh or
22 do it telephonically.

23 JUDGE GESOFF: That's fine.

24 MR. MacGREGOR: Whatever you would prefer.

25 JUDGE GESOFF: All right. Is the only exception to

1 the schedule then would be that Reliant's surrebuttal
2 testimony would be due on the 19th and that we would have a
3 hearing either on the 23rd or 24th if needed?

4 MR. MacGREGOR: And if it's on the 24th it needs to be
5 finished before noon to accommodate Reliant's witness's
6 travel schedule. And also I believe Mr. Knipe and I have
7 agreed that if we do have rejoinder testimony regarding his
8 witness's testimony that we can do that at the hearings on
9 April 26th and 27th.

10 JUDGE GESOFF: Okay.

11 MS. KOLICH: Your Honor, where was this litigation
12 schedule published? Because we have not seen it.

13 JUDGE GESOFF: It was in the prehearing memorandum of
14 the company.

15 MS. KOLICH: Okay.

16 JUDGE GESOFF: The schedule for those who might not
17 know it is that the direct testimony of the opposing parties
18 is due March 29th, rebuttal testimony April the 13th,
19 surrebuttal April 20th, hearings in Harrisburg April 26th
20 and 27th beginning at 9:00 each morning, main briefs due May
21 14th, reply briefs due May 22nd.

22 I would try to get my decision out by around June 8th.
23 Then the Commission would set an exception schedule designed
24 for a decision by the Commission at their July 25th public
25 meeting.

1 I assume that we're talking about oral rejoinder at
2 the hearings April 26th/27th.

3 MR. MacGREGOR: That's correct, Your Honor.

4 JUDGE GESOFF: Is there anything else then about the
5 schedule?

6 MR. BENSHOFF: Your Honor, this is Adam Benshoff from
7 Duquesne Industrial Intervenors. I just want to note for
8 the record that we do agree with the schedule. However, as
9 we had noted in our prehearing memo, we are concerned that
10 the company's proposal regarding large P&I customers will be
11 inconsistent with the recently released POLR regs and policy
12 statements.

13 We're still contemplating whether or not to file a
14 motion to possibly sever the large P&I portion of this plan
15 and delay it until after the regs are finalized. We just
16 wanted to note on the record that our acquiescence to this
17 schedule would not hinder in any way our ability to file
18 such a motion.

19 That's all we have, Your Honor.

20 JUDGE GESOFF: All right. Thank you. Anything else?
21 Okay. Then we'll go with the schedule. Is there anything
22 else that anyone wishes to raise at this time? Okay. Let
23 me just make sure of one thing because I want to note this.
24 No, nevermind.

25 Okay. I think that's it then. I'll get my prehearing

1 order out today. You'll receive a copy of it electronically
2 followed by a hard copy in the mail. Thank you all very
3 much.

4 MS. WEBB: Your Honor, Ms. Webb in Harrisburg. How
5 did you want to accomplish-- I normally give two copies of
6 our prehearing memo to the court reporter. Should we just
7 file them with the secretary or would you prefer that we
8 send them?

9 JUDGE GESOFF: Well, I have two copies right here
10 which I'm going to give to the court reporter, as well as
11 the Duquesne Industrial Intervenors and the OCA and I have
12 two copies of Reliant's also.

13 MR. SHIELDS: Your Honor, this is Mr. Shields for the
14 Office of Trial Staff. I would have the same question.
15 What we had done, hopefully in compliance with Your Honor's
16 order, is send out electronic copies of our prehearing
17 conference memorandum. We were going to wait until after
18 the prehearing conference to send out hard copies.

19 So if you could provide us some guidance how to insure
20 that our prehearing conference memo either gets in the hands
21 of the court reporter or the official file, that would be
22 helpful.

23 JUDGE GESOFF: Well, how about if she gives you her
24 address.

25 MR. SHIELDS: That would be fine, Judge.

1 COURT REPORTER: The address is Commonwealth Reporting
2 Company, 700 Lisburn, L-i-s-b-u-r-n, Road, Camp Hill,
3 Pennsylvania, 17011.

4 MR. SHIELDS: That's very helpful, Your Honor. Thank
5 you.

6 JUDGE GESOFF: Okay.

7 MR. EVRARD: Your Honor, David Evrard from the OCA.
8 Will your prehearing order including the service list as we
9 established it today?

10 JUDGE GESOFF: Yes. Yes, it will.

11 MR. EVRARD: Thank you.

12 MR. SHIELDS: Mr. Shields again. That would be very
13 helpful because our support staff, like I suppose everybody
14 else's support staff, is wondering the company, of course,
15 served initially all the folks that, among others, who were
16 on the recent application case.

17 One other question, Your Honor. As to your e-mail
18 distribution list, I know that some of the administrative
19 law judges prefer to just have on their list the counsel of
20 record. I had asked the parties in our prehearing
21 conference memorandum and the previous e-mails at this
22 docket if they would include Mike Gruber.

23 JUDGE GESOFF: Yes. He's on my list, and I will not
24 take him off.

25 MR. SHIELDS: Thank you very much, Your Honor. I

1 appreciate that.

2 JUDGE GESOFF: Sure.

3 MS. KOLICH: Your Honor, one other matter. We had
4 never been served with a petition or any of the follow-up
5 documents. So how do I go about, just work with the company
6 to--

7 JUDGE GESOFF: Mr. Jack will see that she gets those?
8 Okay. Let me just go over who I have on the mailing list
9 just to make sure. I'm going to take Mr. Gang off.

10 Mr. Kanagy in Harrisburg; Mr. MacGregor in Philly; Mr.
11 Jack in Pittsburgh; Mr. Shields; Mr. Edvard; not Mr. Gray,
12 but Ms. Webb; Ms. Daly, Mr. Reiter and McCaffrey, Citizens
13 Power; Mr. Murphy and Ms. Newall for Exelon; Mr. Fein and
14 Mr. Gupta for Constellation; Mr. Stewart for Dominion Retail
15 and Mr. Jeffries also; Mr. Jugovic for Penn Future; Mr.
16 Knipe for Reliant; Mr. Clearfield and Moody for RESA and
17 Direct Energy; Ms. Creahan for Strategic; Ms. Polecek and
18 Mr. Benshoff for Duquesne Industrial Intervenors; and Mr.
19 Shaffer, Goldenberg, and Forshay for Pennsylvania Large
20 Energy Users Coalition; Ms. Kolich for FirstEnergy
21 Solutions, Corp.; and Mr. Pasciullo for Conservation
22 Consultants, Inc.

23 Those are the ones that I'm going to have on the list.

24 MR. McCAFFREY: Your Honor, this is John McCaffrey for
25 Citizens Power. You can strike Ms. Daly and Mr. Reiter.

1 We're all at the same address. It would be more efficient
2 if just my name was on there so I got the documents and
3 filed them internally here.

4 JUDGE GESOFF: I will do that.

5 MS. KOLICH: Your Honor, one more point of
6 clarification of electronic service. Do you prefer Word or
7 PDF or does it matter?

8 JUDGE GESOFF: Thank you very much. The question was,
9 do I prefer Word or PDF. I'm a very good cut and paster,
10 folks. I want it in Word. Thank you.

11 MS. KOLICH: Do the rest of the parties get it in
12 Word?

13 JUDGE GESOFF: Do the rest of the parties get it in
14 Word? It depends upon your signature situation. Okay? Do
15 you know what I mean by that?

16 MS. KOLICH: No.

17 MR. PASCIVULLO: Electronic signature. That was going
18 to be my point. I'm not sure I want my electronic signature
19 all over there.

20 JUDGE GESOFF: Right. If you do it in Word you're
21 getting electronic signature out there. If you do it in PDF
22 you don't.

23 MS. KOLICH: Okay, that signature.

24 JUDGE GESOFF: But send it to me in Word. I won't
25 mess with your signature. Anything else? Everyone, thank

1 you very much.

2 (Whereupon, at 10:51 a.m., the hearing adjourned.)

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9 C E R T I F I C A T E

10
11 I hereby certify, as the stenographic reporter, that
12 the foregoing proceedings were taken stenographically by me,
13 and thereafter reduced to typewriting by me or under my
14 direction; and that this transcript is a true and accurate
15 record to the best of my ability.

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