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July 1, 2015

**VIA EFILING**

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

Re: Whemco-Steel Castings, Inc. v. Duquesne Light Company  
Docket No. C-2014-2459527

Dear Secretary Chiavetta:

On behalf of Whemco-Steel Castings, Inc., I have enclosed for electronic filing the Motion of Whemco-Steel Castings, Inc. for Summary Judgment, in the above-captioned proceeding.

Copies have been served on those parties indicated in the attached Certificate of Service.

Sincerely,



Alan M. Seltzer

AMS/tlg

Enclosure

cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WHEMCO-STEEL CASTINGS, INC. :  
 :  
v. : **DOCKET NO. C-2014-2459527**  
 :  
DUQUESNE LIGHT COMPANY :

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**NOTICE TO PLEAD**

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TO:      Anthony D. Kanagy                      Tishekia E. Williams  
            Post & Schell PC                          Duquesne Light Company  
            17 N. Second Street, 12<sup>th</sup> Fl.        411 Seventh Avenue, 16<sup>th</sup> Fl.  
            Harrisburg, PA 17101-1601        Pittsburgh, PA 15219

Pursuant to 52 Pa. Code § 5.102(a), you are hereby notified that, if you do not file a written response to the Motion for Summary Judgment of Whemco Steel Castings, Inc. (“Motion”) within **twenty (20) days** from service of this Notice, the Motion may be granted. All pleadings in response to the Motion must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Whemco Steel Castings, Inc., and the presiding Administrative Law Judge as follows:

**File with:**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**

Alan M. Seltzer, Esq.  
Buchanan Ingersoll & Rooney PC  
409 N. Second Street  
Suite 500  
Harrisburg, PA 17101

Dated: July 1, 2015

  
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Alan M. Seltzer, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>WHEMCO-STEEL CASTINGS, INC.</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2014-2459527</b>
	:	
<b>DUQUESNE LIGHT COMPANY</b>	:	

**MOTION OF  
WHEMCO-STEEL CASTINGS, INC. FOR SUMMARY JUDGMENT**

TO ADMINISTRATIVE LAW JUDGE (“ALJ”) JEFFREY A. WATSON:

WHEMCO-Steel Castings, Inc. (“Whemco”), by and through its attorneys, hereby files the following Motion For Summary Judgment (“Motion”), pursuant to Section 5.102 (a) of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.102 (a), and in connection therewith represents as follows:

**I. Introduction**

1. This Motion concerns a utility rate change that occurred in an unusual manner, but whose illegality is rooted in violations of very traditional and customary legal requirements for notice and ratemaking. In 2007, Duquesne Light Company (“Duquesne”) filed a default service proceeding that covered the period January 1, 2008 through December 31, 2010 at Docket No. P-00072247 (“Default Service Proceeding”). There is no evidence that this Default Service Proceeding – which was intended to focus on how *generation* would be procured for Duquesne’s non-shopping customers -- provided Duquesne’s customers with notice that changes to *distribution* rates were being proposed. Specifically, neither Duquesne’s Default Service Proceeding petition nor its supporting testimony in that proceeding gave any indication that an existing distribution rate discount, Rider No. 5, applicable to large commercial and industrial

("Large C&I") customers served under Duquesne's Rate Schedule L like Whemco was proposed to be eliminated. The written settlement agreement that concluded the Default Service Proceeding never identified Rate L customers like Whemco as among those whose existing distribution rate discount would be eliminated. Within the voluminous Default Service Proceeding filing submitted to the Commission, only a portion of a single page of Duquesne's proposed tariff gave any indication that it intended to end the distribution rate discount relied upon by Whemco. These incontrovertible facts demonstrate that Whemco's distribution rates were changed without the notice customers are constitutionally entitled to receive, without submission of data, information and evidence showing the prima facie reasonableness of the proposed rate change, and without a presentation of the reasons for the rate change as required by Commission regulations.<sup>1</sup> Because of these indisputable errors, the written settlement of the Default Service Proceeding could not -- and in fact did not -- terminate the distribution rate discount in Rider No. 5 applicable to Whemco effective January 1, 2011 as Duquesne intended. In the face of these indisputable legal errors, Whemco is entitled as a matter of law to a refund of the rate increase it incurred due to the unlawful elimination of the distribution rate discount applicable to Rate L customers like Whemco in Rider No. 5 of Duquesne's retail tariff.

2. Through this Motion, Whemco seeks a determination that (i) Duquesne improperly and unlawfully terminated as of December 31, 2010 a *distribution-related* discount under its retail tariff through a 2007 *generation-related* default service proceeding, thereby wrongfully depriving Whemco savings on its electric distribution service charge from Duquesne, and (ii) Whemco is entitled to receive an immediate refund from Duquesne under Section 1312 of the Public Utility Code ("Code"), 66 Pa. C S. § 1312, for Whemco's over-payment of electric distribution service charges for the period January 2011 through April 2014.

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<sup>1</sup> See, 52 Pa. Code §§53.51, 53.52.

## II. Background

3. On December 23, 2014 Whemco filed with the Commission a formal complaint against Duquesne (“Formal Complaint”) alleging, among other things, that Duquesne wrongfully terminated as of December 31, 2010 for Rate L customers a distribution-rate discount contained in Rider No. 5 of Duquesne’s then-prevailing and Commission approved retail electric service tariff as a result of the improper implementation of a settlement of the Default Service Proceeding that covered the period January 1, 2008 through December 31, 2010 at Docket No. P-00072247.

4. As a result of Duquesne’s improper and unlawful implementation of the settlement in the Default Service Proceeding and termination of the distribution rate discount contained in Rider No. 5 applicable to Rate L customers like Whemco, Whemco’s electric distribution service bills from Duquesne more than doubled as of January 2011. The loss of the discount contained in Rider No. 5 caused Whemco’s demand, for billing purposes, to increase from a monthly average of 7,287 kilowatts (“kW”) in 2010 to a monthly average of 18,256 kW in 2011.

5. The Formal Complaint seeks, among other things, a refund from Duquesne under Section 1312 of the Public Utility Code (“Code”) in the amount of \$2,480,374.16, plus interest on all unpaid amounts.

6. On January 21, 2015, Duquesne filed an Answer and New Matter denying the material allegations in the Formal Complaint.

7. On February 10, 2015, Whemco filed a Reply to Duquesne’s New Matter, denying the material allegations therein.

8. Prior to the appointment of an Administrative Law Judge (“ALJ”) and the issuance of a Hearing Notice, the parties commenced active discovery in this proceeding. On February 11, 2015, Whemco propounded its first set of interrogatories (“Interrogatories”) upon Duquesne.

9. Duquesne provided answers to the Interrogatories in two separate filings – i.e., March 3, 2015 and March 10, 2015.

10. On March 9, 2015, Whemco propounded on Duquesne Requests for Admission in accordance with the provisions of 52 Pa. Code § 5. 350(a).

11. On March 27, 2014, the Commission issued a formal notice of an evidentiary hearing in this matter for May 7, 2015, along with the appointment of ALJ Jeffrey A. Watson as the presiding officer.

12. Duquesne filed responses to Whemco’s Requests for Admission on March 30, 2015.

13. Based on its view that Duquesne’s responses to Whemco’s Requests for Admission were faulty and not in compliance with the Commission’s regulations, on April 17, 2015 Whemco filed with the Commission a Motion to Determine the Sufficiency of Duquesne’s Responses to Requests for Admission Set I.

14. The presiding ALJ issued an order dated April 21, 2015 which, among other things, converted the May 7, 2015 evidentiary hearing into a prehearing conference and directed the parties to file a pre-hearing conference memorandum prior to 3:00 PM on May 4, 2015.

15. On April 23, 2015, the presiding ALJ issued an Interim Order directing, among other things, that (i) the parties attempt to resolve the matters raised in Whemco’s Motion to Determine the Sufficiency of Duquesne’s Responses to Requests for Admission and, failing such

resolution, (ii) oral argument on said motion be conducted at the May 7, 2015 prehearing conference.

16. On May 7, 2015, the initial prehearing conference was conducted and, among other things, it was agreed that discovery would continue in the proceeding and any case dispositive motions would be filed on or before July 1, 2015. In addition, the parties argued issues relating to Whemco's Motion to Determine the Sufficiency of Duquesne's Responses to Requests for Admission. Following the initial prehearing conference, the Parties resolved their disagreements over several of the Requests for Admission. The ALJ was notified that a ruling would be necessary on the remaining disputed admission requests.

17. On June 2, 2015, Whemco served its second set of interrogatories on Duquesne. In an Interim Order dated June 1, 2015, the ALJ granted in part and denied in part Whemco's Motion to Determine Sufficiency of Duquesne's responses to its Requests for Admission Set I.

18. In a Prehearing Order dated June 2, 2015, the ALJ established, among other things, a tentative litigation schedule for the filing of preliminary case-dispositive motions, discovery protocols, etc.

### **III. Summary Judgment Standards**

19. The Commission's Rules of Administrative Practice and Procedure permit parties to file preliminary motions.<sup>2</sup> Specifically, the Commission's regulations at 52 Pa. Code § 5.102(a) permit any party to move for summary judgment after the pleadings are closed, but within such time as not to delay a hearing. A motion for summary judgment must be based on the pleadings, depositions, answers to interrogatories, admissions and supporting affidavits.<sup>3</sup> The presiding officer must grant a motion for summary judgment if the pleadings, depositions,

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<sup>2</sup>See, 52 Pa. Code §§ 5.101-103.

<sup>3</sup>See, 52 Pa. Code § 5.102(c).

answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1); *Pennsylvania State Univ. v. County Of Centre*, 532 Pa. 142. 144 – 145, 615 A.2d 303, 304 (1992).

20. In the case of a motion for summary judgment, the moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to a judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super. 1983); *Mertz v. Lakatos*, 381 A.2d 497 (Pa. Cmwlt. 1978). All doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. *Thomson Coal Company v. Pike Coal Company*, 412 A.2d 466 (Pa. 1979). Summary judgment will be granted only where the right is clear and free from doubt.

21. The non-moving party in a motion for summary judgment must allege facts showing that an issue for trial exists. *Stover v. The UGI Penn Telephone Co. of Pennsylvania*, Docket No. C-00923833 (Order entered July 21, 1992). The Commission has interpreted 52 Pa. Code Section 5.102(c) in conformity with Rule 1035 (now Rule 1035.1) of the Pennsylvania Rules of Civil Procedure. *South River Power Partners. LP. v. West Penn Power Company*, Docket No. C-00935287 (Order entered November 6, 1996). In civil practice, a non-moving party may not rely solely upon denials in its pleadings, but must submit some materials to establish that a genuine issue of material fact exists. *Nicastro v. Cuyler*, 467 A.2d 1218 (Pa. Cmwlt. 1983); *Pennsylvania Gas & Water Co. v. Nenna & Frain. Inc.*, 467 A.2d 330 (Pa. Super. 1983); *Geriot v. Council of Borough of Darby*, 457 A.2d 202 (Pa. Cmwlt. 1983); *see*

also, Pa. R.C.P. 1035.3, providing that "[s]ummary judgment may be entered against the non-moving party who does not respond." Pa. R.C.P. 1035.3(d).

22. The Commission's regulation at 52 Pa. Code § 5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. 66 Pa. C.S. § 703(a); *Lehigh Valley Power Committee v. Pa. P.U.C.*, 563 A.2d 557 (Pa. Cmwlth. 1989); *S.M.E. Bessemer Cement. Inc. v. Pa. P.U.C.*, 540 A.2d 1006 (Pa. Cmwlth. 1988); *White Oak Borough Authority v. Pa. P.U.C.*, 103 A.2d 502 (Pa. Super. 1954).

#### **IV. Affidavits in Support of Motion for Summary Judgment**

23. This Motion is predicated upon two affidavits, marked as Appendix 1 and Appendix 2, respectively, and incorporated by reference herein. Appendix 1 is the affidavit of Christian Slingluff, Whemco's Manager Purchasing ("Slingluff Affidavit") and Appendix 2 is the affidavit of Pamela Polacek, Esquire, an experienced Pennsylvania public utility and energy lawyer who has spent over eighteen years representing Large C&I customers as well as ad hoc consortia of large customers in various rate and other proceedings before the Commission. ("Polacek Affidavit"). The Slingluff Affidavit documents the uncontroverted factual basis for the unnoticed and unsupported elimination by Duquesne of the Rider No. 5 discount in Rate L for Large C&I 1 customers like Whemco. The Polacek Affidavit demonstrates and confirms, among other things, that a seasoned and experienced energy and utility lawyer in Pennsylvania familiar with both utility rate cases and default service proceedings was not able to discern from the filing that Duquesne was seeking in the Default Service Proceeding (which is supposed to focus on the procurement of electric *generation*) to terminate the Rider No. 5 *distribution-related*

discount for Large C&I customers like Whemco. Ms. Polacek represented Large C&I customers in the Default Service Proceeding.<sup>4</sup>

24. As further noted in the Slingluff Affidavit, Mr. Slingluff has had first-hand knowledge of the interactions between Duquesne and Whemco since 2006, and is fully conversant with the issues raised in the Formal Complaint and in this Motion. Most importantly, the Slingluff Affidavit contains the uncontroverted *facts* that demonstrate that Duquesne eliminated the Rider No. 5 discount applicable to Rate L customers like Whemco in the Default Service Proceeding with no testimony advising of the proposed elimination or the justification for it. To compound the problem of attempting to eliminate the Rider No. 5 discount in a *generation supply* case rather than in a *distribution* rate case with no testimony, the Slingluff Affidavit documents that Duquesne then entered into a settlement of the Default Service Proceeding through a General Stipulation that *does not state* that the Rider No. 5 discount in Rate L for Large C&I customers is being eliminated. And, Duquesne erroneously made a compliance tariff filing reflecting the elimination of the Rider No. 5 discount which the Commission then incorrectly accepted.

25. Regardless of the reasons for these uncontroverted and incontrovertible factual oversights, the relief here is clear as a matter of law. Whemco is entitled to a finding that (i) the elimination of the Rider No. 5 discount in the Default Service Proceeding for Large C&I customers, effective in January 2011, was erroneous as a matter of law, and (ii) it is authorized to receive refunds from Duquesne under Code Section 1312, 66 Pa. C S. § 1312, in the amount of \$2,480,374.16, plus interest on all unpaid amounts.

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<sup>4</sup> Polacek Affidavit, ¶ 17.

## V. Argument

### A. **Rider No. 5**

26. Under the Duquesne retail electric tariff in effect at the time of the Default Service Proceeding, Rider No. 5, Time of Day Discounts (“Rider No. 5”), specifically applied to customers of Rates GS/GM, GL, L, GMH and GLH.<sup>5</sup> Rider No. 5, attached hereto as Appendix 3, was intended to provide, among other things, discounts to customers served on the identified Rate Schedules for distribution service. The Rider specifically applied as follows: “Applicable to Rates GS/GM, GL and L and to Rates GMH and GLH during the months of June, July, August and September only.” When the Default Service Proceeding commenced in 2007, Rider No. 5 provided a generation and distribution service discount to small C&I customers and a distribution service discount to Large C&I customers such as those on Rate L.<sup>6</sup>

27. Under Rider No. 5, if a large Rate L customer like Whemco had sufficient off-peak demand, it could obtain a discount for the purpose of computing its billing demands for distribution rate application rather than use higher demands that occurred during on-peak hours to calculate the distribution charge.

28. Prior to January 1, 2011, Whemco was receiving a demand rate discount for distribution service from Duquesne under Rider No. 5, which discount ceased on and after January 1, 2011.<sup>7</sup>

### B. **Duquesne Erred as A Matter of Law by Attempting to Eliminate the Distribution Rate Rider No. 5 Discount in the Default Service Proceeding Without Affording Whemco Its Constitutional Procedural Due Process Protections.**

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<sup>5</sup>Slingluff Affidavit, ¶ 10.

<sup>6</sup>Appendix 3.

<sup>7</sup>Slingluff Affidavit, ¶ 14.

29. The Default Service Proceeding focused on how an electric distribution company (“EDC”) like Duquesne purchases *electric generation* for those of its customers who cannot or chose not to shop for electric generation in the competitive electric generation market.<sup>8</sup> Absent clear notice, a default service case is not where a retail electric customer would expect and therefore search for any changes that would affect *distribution* rates as opposed to *generation* rates.<sup>9</sup> In fact, Whemco was competitively shopping for its electric generation supply when the Default Service Proceeding was filed<sup>10</sup>, lending further justification to why it would not have had reason to evaluate Duquesne’s voluminous filing absent clear and unequivocal notice of proposed changes in distribution rates that would materially impact it.

30. Importantly, there is ample reason to place affirmative obligations on EDCs looking to change distribution rates in default service cases to meaningfully and explicitly notify customers of the proposed rate change and rate impacts since the Commission has specifically ruled that default service cases, i.e. Provider of Last Resort (“POLR”) cases, are *not* where EDC’s should be seeking to make changes to distribution rates. *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) at 52 (the Commission rejected stipulations regarding Duquesne filing a future distribution rate increase and noted that:

The OCA Stipulation, the OSBA Stipulation and the DII Stipulation all contain a provision which restricts the opportunity of Duquesne to seek a distribution rate increase until some specific time in the future. While we will in large part approve the proposed POLR III Plan as modified by these Stipulations, the record before us contains no evidence which would support such a stay-out provision. *Indeed, we question whether it is appropriate in the first instance to direct a distribution rate condition in the*

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<sup>8</sup> The Commission’s regulations at 52 Pa. Code § 54.181 *et seq.* are replete with requirements related to generation, leaving no doubt what the purpose of a default service proceeding is all about.

<sup>9</sup> Polacek Affidavit, ¶ 22.

<sup>10</sup> Slingluff Affidavit, ¶ 22.

*context of a POLR proceeding.* Accordingly, we will not adopt that provision here. (emphasis added).

31. So, Whemco had no notice when the Default Service Proceeding was filed that Duquesne was attempting to eliminate the Rider No. 5 distribution rate discount for Rider L customers.<sup>11</sup> Although Duquesne has been unable to provide to Whemco copies of any actual notices issued to the public and/or customers when the Default Service Proceeding was filed<sup>12</sup>, there has been no indication that any notice that may have been provided to the public or customers ever mentioned a change to distribution rates as part of the *generation-related* Default Service Proceeding, let alone the specific intention to eliminate the Rider No. 5 distribution rate discount applicable to Rate L customers like Whemco. On the contrary, Duquesne was focused in that proceeding on other issues with respect to Large C&I customers like Whemco, such as the move to a real-time hourly market price for default generation service, changes to Rider No. 9 and the elimination of Rider No. 23 (i.e., the Generation Rate Adjustment Switching rider).<sup>13</sup>

32. This lack of proper notice – as well as introducing a distribution rate change that increased Whemco’s costs, into the Default Service Proceeding – violated Whemco’s procedural due process rights guaranteed by the United States and Pennsylvania constitutions. Where the administrative agency’s decision is adjudicatory in nature and involves the potential deprivation of substantial property rights, the Pennsylvania courts have held – and the Commission has recognized – that “due process of law” requires that those whose interests are adversely affected receive notice of the agency action and an opportunity to challenge that action, generally at a

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<sup>11</sup> Slingluff Affidavit, ¶¶ 15, 20.

<sup>12</sup> See attached Appendix 4 consisting of Duquesne’s responses to Whemco Requests for Admission Set I, Nos. 1-3. Contrary to Duquesne’s position, an assertion in a cover letter that such notice was provided does not constitute evidence that notice indeed occurred.

<sup>13</sup> See, paragraphs 10-12 of the petition filed by Duquesne in the Default Service Proceeding, which petition is attached hereto as Appendix 5, and made a part hereof. There is no mention of Rider No. 5 at all in this section of the aforesaid petition.

hearing and generally before the administrative action takes place. *Lehigh Valley Power Committee v. Pa. P.U.C.*, 128 Pa. Cmwlth Ct. 276, 563 A.2d 557, 562 (1989).

33. However, Duquesne's conduct in the Default Service Proceeding violated *more* than Whemco's constitutional right to procedural due process. It was also a direct and unambiguous violation of Commission regulations relating to notice of changes in utility rates.

34. Pennsylvania law requires public utilities like Duquesne to provide notice to the public in advance of any change to an existing and duly established tariff:

**§ 53.31. Requirement of notice.**

Unless the Commission otherwise orders, a public utility to which this subchapter applies may not change an existing and duly established tariff, except after notice of 60 days to the public.<sup>14</sup>

35. To the extent Duquesne in the Default Service Proceeding desired to change/eliminate a specific provision of its tariff, i.e., the Rider No. 5 distribution rate discount applicable to Rate L customers, it was legally required to advise customers of the substantial and material impact such elimination would have on the distribution rates of Large C&I customers like Whemco. But, rather than providing clear and explicit notice to the impacted customers like Whemco of the proposed elimination of the Rider No. 5 distribution rate discount, Duquesne – whether intentionally or negligently - obscured the elimination of the Rider No. 5 discount beneath its extensive array of documents filed in the Default Service Proceeding, including the petition, written testimony and pro forma financial information and retail tariffs. This was an undeniable violation of 52 Pa. Code § 53.31.

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<sup>14</sup> 52 Pa. Code § 53.31.

36. The Commission's regulations at 52 Pa. Code § 53.32 require public utilities like Duquesne to submit to the Commission detailed information when they file tariff changes precisely like the one relating the Default Service Proceeding and Rider No. 5:

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

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

- (1) The specific reasons for each change.
- (2) The total number of customers served by the utility.
- (3) A calculation of the number of customers, by tariff subdivision, whose bills will be affected by the change.
- (4) The effect of the change on the utility's customers.
- (5) The direct or indirect effect of the proposed change on the utility's revenue and expenses.
- (6) The effect of the change on the service rendered by the utility.
- (7) A list of factors considered by the utility in its determination to make the change. The list shall include a comprehensive statement about why these factors were chosen and the relative importance of each. This subsection does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa.C.S. § 1308 (relating to voluntary changes in rates).
- (8) Studies undertaken by the utility in order to draft its proposed change. This paragraph does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa.C.S. § 1308.
- (9) Customer polls taken and other documents which indicate customer acceptance and desire for the proposed change. If the poll or other documents reveal discernible public opposition, an

explanation of why the change is in the public interest shall be provided.

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

(11) FCC, FERC or Commission orders or rulings applicable to the filing.

37. The types of information required by the Commission's regulations to be filed in support of the elimination of the Rider No. 5 distribution rate discount in the Default Service Proceeding were *not* filed and, as a result, Whemco had no reason to participate in the Default Service Proceeding and no knowledge that it would no longer be able to receive the Rider No. 5 distribution rate discount until about two weeks before the discount was to be eliminated as of December 31, 2010.<sup>15</sup> Duquesne was required, among other things, to identify such critical matters as the reasons for changing the Rider No. 5 distribution rate discount, the number of effected customers, and the effect of the elimination of Rider No. 5 on its customers (i.e., Whemco). The failure to file and submit to the Commission all of the data and information specified in 52 Pa. Code § 53.52 was unlawful and supports the relief requested in this Motion.

38. The undisputable facts are: (i) Duquesne inserting a distribution-related issue in the Default Service Proceeding without supporting evidence and reasons was improper and unlawful; (ii) Whemco could not reasonably discern that the elimination of the Rider No. 5 discount for Rate L (i.e., Large C&I ) customers was even an issue in that case (even assuming it was lawful at the outset); (iii) Duquesne failed to provide sufficient notice of the issue, and Whemco was therefore deprived of its constitutional right to procedural due process; and (iv) Duquesne failed to satisfy and follow, as matter of law, the existing Pennsylvania regulations and

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<sup>15</sup> Slingluff Affidavit, ¶¶ 15, 20 and 21.

procedures necessary to effect a distribution rate change in the Default Service Proceeding (assuming such change was lawfully permissible).

**C. As a Matter of Law, the Default Service Proceeding Failed to Eliminate the Rider No. 5 Distribution Rate Discount to Duquesne Rate Schedule L.**

39. Aside from whether (a) the elimination of the Rider No. 5 distribution rate discount from Duquesne Rate Schedule L was lawfully and properly included as an issue in the Default Service Proceeding and (b) Whemco received sufficient and constitutionally permissible notice of the litigation of the issue, the uncontroverted facts demonstrate that Duquesne did not actually eliminate the Rider No. 5 discount from Rider L from its retail electric service as a matter of law for the following reasons:

- the elimination of the discount was not mentioned at all in the petition instituting the Default Service Proceeding (“Default Service Petition);
- there was no testimony whatsoever from Duquesne in the proceeding supporting the elimination of the Rider No. 5 discount for Rate L customers like Whemco;
- the General Stipulation entered into among Duquesne and other parties to the Default Service Proceeding settling that proceeding *did not mention the elimination of the Rider No. 5 discount for Rate L (i.e., Large C&I) customers*, although it did expressly reference the elimination of the discount for Small C&I customers;
- the boilerplate catchall provision of the General Stipulation could not effectively permit the elimination of the Rider No. 5 discount for Rate L (i.e., Large C&I) customers in the absence of the issue being mentioned in the Default Service Petition and the subject of actual testimony admitted into the record;
- Duquesne’s compliance filing purporting to implement the General Stipulation could not and did not effectively eliminate the Rider No. 5 discount from Rate Schedule L for the reasons specified above; and
- for the reasons specified above, the Commission’s approval of the Duquesne’s compliance filing was in error and unlawful.

Each of these reasons will be discussed further below.

40. First, the Default Service Petition filed by Duquesne in 2007 does not mention any elimination of the Rider No. 5 distribution rate discount for Large C&I customers, like Whemco.<sup>16</sup> This is crucial since the Default Service Petition is where one would expect to see the proposals of a filing most critical to the EDC, the Commission and ratepayers.<sup>17</sup> Duquesne mentioned and emphasized other tariff provisions, but not the elimination of the Rider No. 5 distribution rate discount for Large C&I customers. As noted above, Duquesne was focused solely on (i) the move to a real-time hourly market price for default service, (ii) changes to Rider No. 9 and (iii) the elimination of Rider No. 23 (i.e., the Generation Rate Adjustment Switching rider).

41. Second, as stated in the Slingluff Affidavit and the Polacek Affidavit, Duquesne did not file any testimony whatsoever in the Default Service Proceeding in direct support of the elimination of Rider No. 5 distribution rate discount for Large C&I customers, like Whemco, served under Rate Schedule L.<sup>18</sup> However, Duquesne did expressly address the elimination Rider No. 5 discount with respect to the “small C&I rate schedules” in the testimony of William V. Pfrommer, as follows in Duquesne Statement No. 4, page 10, the entirety of which is attached hereto as Appendix 6:

**Q.** Will these proposed changes to the small C&I rate schedules effect any other charges applicable to these rate schedules?

**A.** Yes. The minimum charges associated with these rate schedules have been modified to be consistent with the proposed POLR supply rates and elimination of demand charges. In addition, Rider 5 is the Company’s Time of Day discount to demand charges that is a legacy of pre-restructuring rate design when the Company owned generation. The rider provides a discount to demand charges associated with the monthly meter read. Since the Company is proposing to phase

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<sup>16</sup> Slingluff Affidavit, ¶ 19, Polacek Affidavit, ¶ 19, Appendix 5.

<sup>17</sup> Polacek Affidavit, ¶ 20.

<sup>18</sup> Slingluff Affidavit, ¶ 23; Polacek Affidavit ¶ 19.

out the demand changes for rates GM and GMH, it does not make sense to keep this rider for discounts applicable only to distribution charges. The Company proposes to completely eliminate this rider effective January 1, 2010. Phasing-out this rider over time will allow customers to modify their operations to the extent possible and enable them to become accustomed to the new rate structure.<sup>19</sup>

42. The aforesaid testimony was in the section of the Pfrommer testimony entitled “SMALL CUSTOMER RATE DESIGN.” “Large Customer” rates were discussed in a separate part of the Pfrommer testimony and there was no counterpart provision discussing the elimination of the Rider No. 5 distribution rate discount in the portion of the Pfrommer testimony entitled “LARGE CUSTOMER SUPPLY RATES”, which would have been the section applicable to Whemco as a Large C&I customer served under Rate Schedule L. And, there is no doubt that Rate L customers like Whemco were considered by Duquesne to be part of the Large C&I rate classes: “Rate Schedules GL, GLH, L and HVPS define the large C&I rates classes and are applicable to approximately 871 customers with monthly-metered demands greater than 300 kW.”<sup>20</sup>

43. In its discovery responses, attached to this Motion as Appendix 7, Duquesne cites the following sentence from its *small C&I customer testimony* in the Default Service Proceeding as demonstrating that it provided notice and support for eliminating Rider No. 5 to *large customers* like Whemco as well as small customers: “[t]he Company proposes to completely eliminate this rider effective January 1, 2010.”<sup>21</sup> Duquesne’s claim ignores the context of its own testimony. First, this cited testimony does not mention Large C&I customers at all. Second, this referenced sentence appears in the section of the testimony expressly labeled “Small Commercial and Industrial Customers,” hardly suggesting to even the most knowledgeable

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<sup>19</sup> Slingluff Affidavit. ¶ 25.

<sup>20</sup> Appendix 6, Default Service Proceeding. Pfrommer testimony, Duquesne Statement No. 4, page 18.

<sup>21</sup> Appendix 7, Duquesne Response to Whemco Set I, No. 22.

person that this language also applies to Large C&I customers like Whemco. Ms. Polacek certainly did not read that language to be applying to large customers like Whemco.<sup>22</sup> And, most importantly, immediately preceding the referenced testimony is a discussion of “phasing out” the Rider No. 5 discount for *small C&I customers*.<sup>23</sup>

44. The context of Mr. Pfrommer’s testimony in the Default Service Proceeding makes it clear that the language relied on by Duquesne to support the elimination of the Rider No. 5 discount for Large C&I customers like Whemco is completely erroneous. At the time Mr. Pfrommer submitted this testimony, Rider No. 5 was a generation and distribution rate discount for small C&I customers and only a distribution rate discount for Large C&I customers such as Whemco because the generation-related Rider No. 5 discount for Large C&I customers had already been removed in Duquesne’s 2003 default service proceeding at Commission Docket No P-00032071.<sup>24</sup> This is completely consistent with the fact that Large C&I customers were the first ones to take advantage of the competitive retail electric generation market after deregulation was fully implemented in Pennsylvania.

45. On the page before Mr. Pfrommer’s “completely eliminate” reference, he *repeatedly* describes how small C&I customer rates were proposed to be redesigned, including how certain rate components like demand charges and declining block rates need to be phased out.<sup>25</sup> Thus, the “phase-out” reference related only to small C&I customers. After this phase out of the existing small C&I customer rate design, only the distribution rate component of the Rider No. 5 discount for small C&I customers would remain. On page 10 of the small C&I customer

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<sup>22</sup> Polacek Affidavit, ¶¶ 19 and 23.

<sup>23</sup> Appendix 6, p. 9 (“For rate GM, however, a different approach was used....To allow customers to adjust to this change in the supply charge rate structure, the Company proposes to phase-out the demand charges and declining block rates to transition all customers to a flat energy supply rate.”).

<sup>24</sup> Polacek Affidavit, ¶ 25.

<sup>25</sup> Appendix 6, Pfrommer Testimony, Default Service Proceeding, Duquesne St. No. 4, p. 9.

testimony, Mr. Pfrommer indicates that it does not make sense to keep the Rider No. 5 discount just for distribution charges and thus “[t]he Company proposes to completely eliminate this rider...” Therefore, the “complete elimination” reference can only refer to small C&I customer generation and distribution discounts under Rider No. 5, and not as Duquesne would have it, to a whole different category of customers, Large C&I customers, who are never mentioned anywhere in this testimony.

46. Mr. Pfrommer culminates his small C&I customer testimony with the statement that “[p]hasing-out this rider over time will allow customers to modify their operation to the extent possible and enable them to become accustomed to the new rate structure.”<sup>26</sup> There was no phase-out of Rider No. 5 for Large C&I customers<sup>27</sup> so it is completely untenable to construe the phrase “completely eliminate” as applying to a never referenced category of customers – i.e., Large C&I customers.

47. All of this points to the inescapable conclusion that the obtuse language in the 2007 Default Service Proceeding claimed by Duquesne to have eliminated the Rider No. 5 discount for Large C&I customers like Whemco, who were neither notified of the issue nor participating in the case, is deficient as a matter of law. No other facts or analysis is needed to support such a finding and conclusion.

48. The only reference to any elimination of the Rider No. 5 distribution rate discount for Rate Schedule L in the materials submitted by Duquesne in the Default Service Proceeding was in the pro forma Duquesne tariff attached as an exhibit (i.e., Exhibit NJDK-3) to the testimony of Duquesne witness Nancy J. Krajovic, excerpts of which (including the tariff page)

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<sup>26</sup> Appendix 6, Pfrommer Testimony, Default Service Proceeding, Duquesne St. No. 4, p. 10.

<sup>27</sup> After the completion of the Default Service Proceeding, the Rider No. 5 distribution-related discount applicable to Rate L customers like Whemco was scheduled to simply terminate as of December 31, 2010 without any further action by the Commission or Duquesne, or any other intervening steps. This is indeed the very opposite of a “phase out” as characterized by Mr. Pfrommer in his Default Service Proceeding testimony.

are attached hereto as Appendix 8. Exhibit NJDK-3 was mentioned on page 13 of the Krajovic direct testimony, but there is nothing about the elimination of Rider No. 5 or any other aspect of the Rider No. 5 discount for Large C&I customers in that testimony.<sup>28</sup>

49. In Exhibit NJDK-3, the following sentence appears under the heading “RIDER NO. 5 – TIME OF DAY DISCOUNTS” in the pro forma tariff: “The availability and application of Rider No. 5 – Time of Day Discounts will terminate December 31, 2010. (C)” Importantly, there were no reasons offered as to why the Rider No. 5 distribution rate discount applicable to Large C&I customers like Whemco was being terminated other than the mere inclusion of the letter “C” in parentheses. In fact, Duquesne has been compelled to admit that the Krajovic testimony in the Default Service Proceeding provides neither an “explanation” nor a statement of “supporting reasons” for any modification to Rider No. 5.<sup>29</sup>

50. Having offered no statement in the Default Service Petition or in testimony about the intended elimination of the Rider No. 5 discount for Rate L customers like Whemco, Duquesne next attempted to settle the Default Service Proceeding via the General Stipulation.<sup>30</sup>

51. Not surprisingly, the General Stipulation (attached as Exhibit 2 to the Slingluff Affidavit) handled the elimination of the Rider No. 5 discount for Rate L customers like Whemco in much the same way it was handled in the Default Service Petition and testimony, i.e., not at all.

52. In addition to containing various general and miscellaneous provisions, the General Stipulation is organized into three distinct sections corresponding to the three major classes of Duquesne customers: residential (Duquesne Rate Schedules RS, RA and RH), small

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<sup>28</sup> Polacek Affidavit, ¶ 26; Slingluff Affidavit, ¶ 27.

<sup>29</sup> Interim Order p. 17 (June 1, 2015).

<sup>30</sup> Slingluff Affidavit, ¶ 29.

commercial and industrial (Duquesne Rate Schedules GS/GM and GMH), and large commercial and industrial (Duquesne Rate Schedules GL, GLH, L and HVPS).<sup>31</sup>

53. Under the section of the General Stipulation labeled “Small C&I”<sup>32</sup> Customers, the parties to the Default Service Proceeding expressly provided that “Rider No. 5, Time of Day Discounts, will terminate on December 31, 2010.”<sup>33</sup>

54. There is no provision in the section of the General Stipulation labeled “Large C&I”<sup>34</sup> Customers” purporting to terminate or take any other action relative to the customer discount provided by Rider No. 5 applicable to Rate L customers like Whemco.<sup>35</sup>

55. The bottom line is that the portion of the General Stipulation relating to Large C&I customers does not reference *at all* the elimination of the Rider No. 5 distribution rate discount in Rate Schedule L.<sup>36</sup>

56. The General Stipulation contains a boilerplate provision indicating that “[e]xcept as modified herein, the Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 Through December 31, 2010 is approved.” This general language cannot possibly support the approval of the elimination of the Rider No. 5 discount in Rate Schedule L where, as noted above, neither the Default Service Petition nor any testimony in the Default Service Proceeding contains anything addressing the very issue deemed to be approved by this boilerplate language. To construe the catchall provision as approving the elimination of the Rider No. 5 discount in Rate Schedule L under the undisputed facts present here would set a devastating and irrational precedent that would allow parties to obtain

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<sup>31</sup> Slingluff Affidavit, ¶ 30.

<sup>32</sup> Under the terms of the General Stipulation, “Small C&I” refers to small commercial and industrial customers. Appendix 1, Exhibit 2, ¶ 2 A, p. 2.

<sup>33</sup> Slingluff Affidavit, ¶ 31.

<sup>34</sup> Under the terms of the General Stipulation, “Large C&I” refers to large commercial and industrial customers. Appendix 1, Exhibit 2, ¶ 3 A, p. 3.

<sup>35</sup> Slingluff Affidavit, ¶ 32.

<sup>36</sup> Slingluff Affidavit, ¶ 34.

Commission approval of allegedly settled issues never even known to be in the case, with no notice to the impacted customers/parties. This cannot and indeed should not be considered a lawful outcome of a proceeding changing utility rates.

57. After the General Stipulation was executed and with no party in the Default Service Proceeding evaluating the impact of the General Stipulation on the status of the Rider No. 5 discount with respect to Large C&I customers like Whemco, the erroneous and ineffective attempt to eliminate that discount for Rate Schedule L customers was perpetuated in the Recommended Decision dated May 3, 2007 (which approved the General Stipulation without modification) and again by the Commission in its June 21, 2007 order approving the Recommended Decision.<sup>37</sup> And, on December 7, 2007, Duquesne made a compliance filing with the Commission which, among other things, included a termination date for cancelling Rider No. 5 with respect to *all* customer classes that were receiving such discounts previously, including Rate Schedule L.<sup>38</sup>

58. But the improper termination of the Rider No. 5 distribution rate discount for Rate Schedule L customers like Whemco does not excuse Duquesne from the consequences of its undeniable and incontrovertible conduct – i.e., the failure to properly and lawfully terminate the Rider No. 5 discount applicable to Rate Schedule L (i.e., Large C&I) customers like Whemco, which resulted in Duquesne increasing Whemco's rates for electric distribution service at the Midland Facility from January 2011 through April 2014.

59. Because the facts are clear and incontrovertible, Whemco is entitled to the relief requested in this Motion as a matter of law. To do otherwise would needlessly commit the

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<sup>37</sup> Slingsluff Affidavit, ¶¶ 35-36.

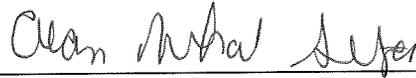
<sup>38</sup> Slingsluff Affidavit, ¶ 37.

parties to a prolonged, unnecessary, costly and timely administrative proceeding when Whemco's entitlement of a refund is undeniable.

WHEREFORE, for the reasons specified above, Whemco requests that this Motion be granted in its entirety and that the ALJ find that (i) Duquesne failed to terminate the discount provision of Rider No. 5 applicable to Whemco as a Rate Schedule L customer in the Default Service Proceeding and, therefore (ii) Whemco is entitled to refunds from Duquesne under Code Section 1312 in the amount of \$2,480,374.16, plus interest on all unpaid amounts, representing Whemco's over-payment of electric distribution service charges to Duquesne for the period January 2011 through April 2014.

Respectfully submitted,

Dated: July 1, 2015



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Attorneys for WHEMCO-Steel Castings, Inc.

Affidavit of  
Christian Slingluff

**APPENDIX 1**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>WHEMCO-STEEL CASTINGS, INC.</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2014-2459527</b>
	:	
<b>DUQUESNE LIGHT COMPANY</b>	:	

**AFFIDAVIT OF CHRISTIAN SLINGLUFF**

I, Christian Slingluff, provide this affidavit in the above referenced proceeding under penalty of perjury, and in connection therewith depose and say the following:

**I. Preliminary Information**

1. My name is Christian Slingluff, Manager Purchasing, WHEMCO Inc.
2. My business address is 5 Hot Metal Street, Suite 300, Pittsburgh PA 15203-2351.
3. As Manager Purchasing, I am responsible for purchased commodities including utility services and raw materials, inventory management, maintenance-repair-operations and other supplies for daily operations.

**II. Description of Whemco, its Facilities and Electric Service from Duquesne**

4. WHEMCO-Steel Castings, Inc. ("Whemco") is a Delaware corporation with plants in Midland, Pennsylvania ("Midland Facility"), and West Homestead, Pennsylvania. Whemco produces cast steel backup rolls for various rolling mill applications. Major casting products include slag pots for ferrous and non-ferrous applications and coiler drums for steckel mills (a type of rolling mill) applications. Whemco also supplies mill housings, large chocks, die blocks, and a variety of components for the mining, material handling, and power generation industries.
5. Duquesne Light Company ("Duquesne") presently provides electric distribution services to the Midland Facility under its Rate Schedule L ("Rate L").
6. Whemco currently has 158 employees in Pennsylvania, 89 at the Midland Facility and another 69 in the West Homestead plant. Whemco is part of the WHEMCO group of companies which collectively employs 543 people in Pennsylvania.
7. The Midland Facility consumes approximately 1.4 million kilowatt-hours ("kWh") of electricity monthly based on average market conditions, and operates generally during PJM's off-peak hours of 11:00 PM to 8:00 A.M. Monday thru Friday. However, recent conditions have caused the Midland Facility's usage to be

approximately 800,000-900,000 kW per month and that amount is expected to remain reasonably constant for the foreseeable future.

8. The Midland Facility's electric service voltage from Duquesne is 138 kilovolts ("kV"). Whemco owns all of the electric power distribution facilities at the Midland Facility from the low side of a dedicated 138 kV substation owned by Duquesne.
9. The Midland Facility takes electric distribution service from Duquesne under Rate L – Large Power Service, pursuant to Duquesne's retail electric tariff on file with and approved by the Commission as Supplement No. 82 to Electric-PA.P.U.C No. 24 ("Tariff").

### **III. Description of Rider No. 5 Discount and Cancellation Thereof**

10. According to the Tariff, Rider No. 5, Time of Day Discounts, specifically applied to Rates GS/GM, GL, L, GMH and GLH. Attached hereto as Exhibit 1 is Rider No. 5, Time of Day Discounts that was in existence as of December 2010.
11. Rider No. 5 was intended to provide, among other things, discounts to customers served on the identified Rate Schedules for distribution service. The Rider specifically applied as follows: "Applicable to Rates GS/GM, GL and L and to Rates GMH and GLH during the months of June, July, August and September only."
12. Under Rider No. 5, a large Rate L customer like Whemco with sufficient off-peak demand could obtain a discount for the purpose of computing its billing demands for distribution rate application, rather than use higher demands that occurred during on-peak hours, to calculate the distribution charge.
13. Duquesne cancelled and terminated Rider No. 5 with respect to Rate L customers, including Whemco, as of January 1, 2011 pursuant to Third Revised Page No. 84 to Duquesne's then existing retail electric service tariff on file with the Commission.
14. Prior to January 1, 2011, Whemco was receiving a demand rate discount using on-peak demand measurement or minimum bill calculation for distribution service from Duquesne under Rider No. 5, which discount ceased on and after January 1, 2011.
15. The first time Whemco became aware that the discount it was receiving under Rider No. 5 was being eliminated was via an email sent by Kim Titley, Duquesne's then account representative, on December 8, 2010, twenty-three days before the aforesaid discount was to be eliminated.
16. In order to address the substantial economic impact on Whemco of losing the discount in Rider No. 5 as of January 1, 2011, Whemco immediately contacted Duquesne to determine what, if anything could be done, and thereafter commenced negotiations with Duquesne to enter into a special contract under Rule No. 4 of Duquesne's retail electric service tariff.
17. No special contract under Rule No. 4 was ever executed between Whemco and Duquesne.

#### IV. Duquesne's 2007 Default Service Proceeding

18. On January 25, 2007, Duquesne filed a petition at Docket No. P- 00072247 ("Default Service Proceeding") for Commission approval of a plan to supply default generation service to non-shopping customers for the period from January 1, 2008 through December 31, 2010 ("Default Service Plan"). The Default Service Plan contained Duquesne's comprehensive plan under which it proposed to provide default *generation* service to its non-shopping customers for the period 2008 through 2010.
19. The petition in the Default Service Proceeding did not mention Duquesne's apparent intention to eliminate the Rider No. 5 discount applicable to Rate Schedule L customers as of December 31, 2010.
20. Whemco was not aware of, and not informed that, the Default Service Plan, which expressly dealt with *generation* service, could and would impact any aspects of Whemco's *distribution* service from Duquesne for the period *beyond* 2010, specifically the elimination of the Rider No. 5 discount in Rate Schedule L.
21. Whemco did not participate in any fashion in the Default Service Proceeding before the Commission.
22. When the Default Service Proceeding was filed, Whemco was purchasing its electric generation supply from the competitive electric generation market and was not taking default service from Duquesne.

#### V. Testimony in Default Service Proceeding

23. Duquesne offered no written testimony in the Default Service Proceeding directly addressing the elimination of the Rider No. 5 discount for large commercial and industrial customers, like Whemco, served under Rate Schedule L.
24. In contrast to the absence of treatment for large commercial and industrial customers, Duquesne did expressly address the elimination of the Rider No. 5 discount with respect to the "small C&I rate schedules" in the testimony of William V. Pfrommer.
25. The portion of the Pfrommer testimony, Duquesne Statement No. 4, page 10, from the Default Service Proceeding expressly addressed the elimination of the Rider No. 5 discount for the small C&I rate schedules and is set forth below in its entirety:

Q. Will these proposed changes to the small C&I rate schedules effect any other charges applicable to these rate schedules?

A. Yes. The minimum charges associated with these rate schedules have been modified to be consistent with the proposed POLR supply rates and elimination of demand charges. In addition, Rider 5 is the Company's Time of Day discount to demand charges that is a legacy of pre-restructuring rate design when the Company owned generation. The rider provides a discount to demand charges associated with the

monthly meter read. Since the Company is proposing to phase out the demand charges for rates GM and GMH, it does not make sense to keep this rider for discounts applicable only to distribution charges. The Company proposes to completely eliminate this rider effective January 1, 2010. Phasing-out this rider over time will allow customers to modify their operations to the extent possible and enable them to become accustomed to the new rate structure.

26. The aforesaid testimony was in the section of the Pfrommer testimony entitled "SMALL CUSTOMER RATE DESIGN." There is no counterpart provision discussing the elimination of the Rider No. 5 discounts in the portion of the Pfrommer testimony entitled "LARGE CUSTOMER SUPPLY RATES"; which would have been the section applicable to Whemco as a customer served under Rate Schedule L. The Pfrommer testimony, Duquesne Statement No. 4, page 18, specifically recognized that Rate L customers were part of the large commercial and industrial rate classes: "Rate Schedules GL, GLH, L and HVPS define the large C&I rates classes and are applicable to approximately 871 customers with monthly-metered demands greater than 300 kW."
27. The only reference to any elimination of the Rider No. 5 discounts in the materials submitted by Duquesne in support of its case in the Default Service Proceeding is in Exhibit NJDK-3, the pro forma Duquesne tariff that was an exhibit to the testimony of Duquesne witness Nancy J. Krajovic. Exhibit NJDK-3 is mentioned on page 13 of the Krajovic direct testimony, but there is no direct or specific mention made (and no explanation or supporting reasons provided) of the elimination or any other aspect of the Rider No. 5 discount for large commercial and industrial customers in that testimony.
28. In Exhibit NJDK-3, the following sentence appears under the heading "RIDER NO. 5 - TIME OF DAY DISCOUNTS" in the pro forma tariff: "The availability and application of Rider No. 5 - Time of Day Discounts will terminate December 31, 2010. (C)"

## **VI. Settlement of the Default Service Proceeding**

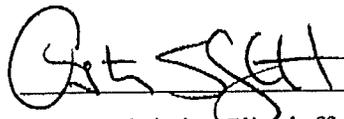
29. On April 26, 2007, Duquesne and other parties to the Default Service Proceeding filed with the Commission for its approval a general stipulation purporting to resolve all the issues in that proceeding ("General Stipulation"). The General Stipulation is attached hereto as Exhibit 2 and incorporated by reference herein.
30. In addition to containing various other general and miscellaneous provisions, the General Stipulation is organized into three distinct sections corresponding to the three major classes of customers: residential (Duquesne Rate Schedules RS, RA and RH), small commercial and industrial (Duquesne Rate Schedules GS/GM and GMH), and large commercial and industrial (Duquesne Rate Schedules GL, GLH, L and HVPS).

31. Under the section of the General Stipulation labeled "Small C&I<sup>1</sup> Customers, the parties to the Default Service Proceeding expressly provided that "Rider No. 5, Time of Day Discounts, will terminate on December 31, 2010." Exhibit 1, ¶2 G, p. 3.
32. There is no provision in the section of the General Stipulation labeled "Large C&I<sup>2</sup> Customers" purporting to terminate or take any other action relative to the customer discount provided by Rider No. 5, Time of Day Discounts, or any other Time of Day provisions which were then a part of Duquesne's retail electric service tariff on file with the Commission.
33. Under the terms of the General Stipulation, the large commercial and industrial rate schedules include Rates GL, GLH, HVPS and Rate L, the latter being the rate schedule under which Whemco was (and is today) receiving electric distribution service from Duquesne for the Midland Facility.
34. The portion of the General Stipulation relating to large commercial and industrial customers does specifically reference the elimination of or modification to other riders in Duquesne's then-existing retail tariff (e.g., Rider Nos. 8 and 9), but there is no mention of Rider No. 5 and the elimination of the discount contained in that rider.

#### **VII. Approval and Implementation of the General Stipulation**

35. In a Recommended Decision dated May 3, 2007 ("Recommended Decision"), the presiding Administrative Law Judge in the Default Service Proceeding approved, among other things, the General Stipulation without modification.
36. On June 21, 2007, the Commission entered an order approving the Recommended Decision ("Commission Order").
37. On December 7, 2007, Duquesne made a compliance filing with the Commission which, among other things, included a termination date for cancelling Rider No. 5 with respect to *all* customer classes that were receiving such discounts previously, including Rate Schedule L.
38. The statements contained in this affidavit are true and correct.

Dated: June 30, 2015



Christian Stingluff, Manager Purchasing  
WHEMCO Inc.

<sup>1</sup> Under the terms of the General Stipulation, "Small C&I" refers to small commercial and industrial customers. Exhibit 1, ¶2 A, p. 2.

<sup>2</sup> Under the terms of the General Stipulation, "Large C&I" refers to large commercial and industrial customers. Exhibit 1, ¶3 A, p. 3.

Commonwealth

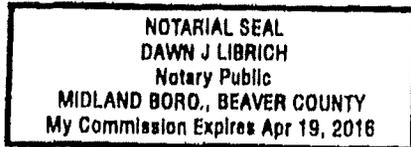
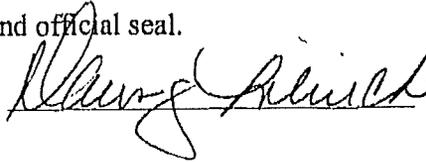
Of Pennsylvania )

County of Beaver )SS:

On this, the 30<sup>th</sup> day of June, 2015, before me a notary public, the undersigned officer, personally appeared Christian Slingluff, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public



DUQUESNE LIGHT COMPANY

SUPPLEMENT NO. 10  
TO ELECTRIC - PA. P.U.C. NO. 24  
THIRD REVISED PAGE NO. 84  
CANCELLING SECOND REVISED PAGE NO. 84

STANDARD CONTRACT RIDERS - (Continued)

RIDER NO. 5 - TIME OF DAY DISCOUNTS

(Applicable to Rates GS/GM, GL and L and to Rates GMH and GLH  
during the months of June, July, August and September only)

The availability and application of Rider No. 5 - Time of Day Discounts will terminate December 31, 2010. (C)

Where a customer has a separately measured demand and is supplied by any standard service voltage and where such customer so operates that the maximum demand created during any billing period occurs during off-peak hours, the bills will be calculated using the Billing Demand defined below on the applicable rate and any other applicable riders.

CONTRACT DEMANDS

The Contract On-Peak Demand is the maximum electrical capacity in kilowatts which the Company shall be required by the contract to make available during the on-peak hours to the customer.

The Contract Off-Peak Demand is the maximum electrical capacity in kilowatts which the Company shall be required by the contract to make available during the off-peak hours to the customer. The customer's minimum Billing Demand shall be no lower than one-third (33 1/3%) of the customer's Contract Off-Peak Demand.

The customer shall not establish a demand greater than 105 percent of the individual demands specified in the customer's contract unless written approval shall first have been obtained from the Company. If the customer establishes a repeated pattern of exceeding the Contract Demand, the Contract Demand may be raised to the highest demand established for the remaining term of the contract.

DEMANDS AND ENERGIES

The On-Peak Demand is the demand during on-peak hours. The Off-Peak Demand is the demand during off-peak hours.

Demands and energies will be determined on an individual demand basis and corresponding quantities will be combined to obtain demands and energies for billing purposes.

RATES GL, GLH AND L

For customers on Rates GL, GLH and L who purchase their electric supply requirements from the Company, the discounts available under the provisions of this rider will apply only to the demand charges billed for distribution. (C)  
The demand charges billed for supply provided under Rider No. 9 will not be impacted by this rider. For customers on Rates GL, GLH and L who purchase their electric supply requirements from an EGS, the discounts available under the provisions of this rider will apply only to the demand charges billed for distribution service.

(C) - Indicates Change

ISSUED: JULY 12, 2007

EFFECTIVE: JANUARY 1, 2008

EX-10.1 2 dex101.htm GENERAL STIPULATIONS

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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  
.....  
.....

**STIPULATION**

Duquesne Light Company ("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"), Strategic Energy, LLC, Direct Energy, LLC and Retail Energy Supply Association (collectively, the "Parties") either support, support in part and do not oppose the remainder, or do not oppose (as explained in footnote 1)<sup>1</sup> this Stipulation to resolve all issues among them regarding Duquesne Light's default service plan for the period January 1, 2008 through December 31, 2010.

**1. RESIDENTIAL CUSTOMERS.**

<sup>1</sup> Duquesne Light, OTS, OSBA, and Dominion join in the entire stipulation. The OCA joins in paragraphs 1 and 5 through 9 of the Stipulation and does not oppose the remaining paragraphs. Reliant supports Paragraphs 3A and 3B and does not oppose the remaining paragraphs. Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. support only Paragraph 2.E. on the elimination of declining block energy rates on January 1, 2008 for small commercial and industrial customers with a monthly metered demand that is 25 kW or greater, and agree to waive the following 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. CCI, Citizen Power, Exelon, PennFuture, FES, and PALEUC do not oppose this Stipulation and so indicate by their signatory representation at the end of this Stipulation.

- 
- A. Duquesne Light shall offer residential customers (Rate Schedules RS, RA and RH) default service at the rates set forth in Attachment A for the period January 1, 2008, through December 31, 2010. The supply rate for Rate RS customers over the three year period will be 7.1560 cents per kWh. In 2008 and 2009, the tail block supply rates for Rate RH customers will be increased by 0.3083 cents per kWh as compared to the tail block supply rates originally filed by the Company. In 2010, the supply rate for Rate RH customers will be a flat rate of 6.8950 cents per kWh. This rate is 0.2610 cents per kWh lower than the rate originally proposed by the Company for Rate RH customers in 2010.
  - B. Duquesne Light 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.
  - C. Ancillary service and PJM administrative costs for Residential customers will be recovered through the Transmission Service Charge ("TSC") as set forth in Exhibit NJDK-3 of Duquesne St. No. 5.

2. SMALL C&I CUSTOMERS.

- A. Duquesne Light shall offer small commercial and industrial ("Small C&I") customers with maximum registered peak metered demands of less than 25 kW served under rate schedules GS/GM and GMH fixed rates for the 2008-2010 period at levels set forth in Attachment B. As filed and proposed class average default service supply rates for all small customer classes are provided as Attachment C.
- B. Duquesne Light shall offer Small C&I customers with maximum registered peak metered demands of 25 kW or greater served under rate schedules GM and GMH fixed rates for 2008, but subject to two market price rate adjustments (every six months) for supply delivered in calendar year 2009 and two market price rate adjustments (every six months) for supply delivered in calendar year 2010.
- C. The market price rate adjustment shall be calculated using the methodology described in Statement No. 3 of Duquesne Light's testimony, except that rates shall be adjusted two times in 2009, on January 1, 2009 and July 1, 2009 and two times in 2010, on January 1, 2010 and July 1, 2010. Rather than calculate market price movements based on calendar year forward prices, Duquesne Light shall calculate market price movements based on six months of forward prices in 2009 and 2010 for the applicable six month rate period. The index shall be calculated according to the following schedule:
  - i. **On December 1, 2008** (for the six month rate period of January 1, 2009 ending June 30, 2009, based on the twenty trading days immediately preceding December 1, 2008),
  - ii. **On June 1, 2009** (for the six month rate period of July 1, 2009 ending December 31, 2009, based on the twenty trading days immediately preceding June 1, 2009),
  - iii. **On December 1, 2009** (for the six month rate period of January 1, 2010 ending June 30, 2010, based on the twenty trading days immediately preceding December 1, 2009), and

iv. **On June 1, 2010** (for the six month rate period of July 1, 2010 ending December 31, 2010, based on the twenty trading days immediately preceding June 1, 2010).

- D. For purposes of determining a particular customer's eligibility for either the fixed rate or the indexed Small C&I customer rate during the next calendar year, Duquesne Light shall evaluate the customer's 12 most recent months of monthly metered demand for that customer available in October of the preceding year. If the customer's monthly metered demand is less than 25 kW in each of the 12 months, then that customer shall be eligible for the fixed default service rate for the next calendar year and automatically assigned to that rate as their default service rate effective with their January billing. However, if the customer's monthly metered demand is 25 kW or greater for any single month of the 12 month period, then that customer shall be eligible for the indexed default service rate for the next calendar year and automatically assigned to that rate as their default service rate effective with their January billing. In no instance, shall a customer be eligible for more than one default service offering at a time. A new GS/GM or GMH customer or GS/GM and GMH customers with limited or no historical data shall be eligible for and assigned to the applicable default service based on Duquesne Light's estimate of the customer's peak monthly metered demand for the next 12 month period.
- E. As set forth in Duquesne Light's Petition, declining block energy rates for Rate GS customers will be eliminated as of January 1, 2008. Declining block energy rates for Rate GM and GMH customers with a monthly metered demand less than 25 kW will be phased out by January 1, 2010. Declining block energy rates for Rate GM and GMH customers with a monthly metered demand that is 25 kW or greater will be eliminated on January 1, 2008. For 2008 and 2009, the declining block energy rates will be combined into a single rate. These rates are shown on Attachment B.
- F. Supply related demand charges for Small C&I customers will be phased out by January 1, 2010, as set forth in Duquesne Light's Petition.
- G. Rider No. 5, Time of Day Discounts, will terminate on December 31, 2010.
- H. Ancillary service and PJM administrative costs for Small C&I customers will be recovered through the TSC as set forth in Exhibit NJDK-3 of Duquesne St. No. 5.

3. LARGE C&I CUSTOMERS.

- A. Duquesne Light shall offer large commercial and industrial ("Large C&I") customers default service at real-time hourly rates. Large C&I rate schedules include Rates GL, GLH, L and HVPS.
- B. Fixed Price Service Rider No. 8 is eliminated. Rule 45.2 regarding switching rules will be revised to eliminate its applicability to Large C&I rate schedules. In addition, Rider No. 23 (Generation Rate Adjustment) will be eliminated as it is only applicable to customers electing Rider No. 8.
- C. Rider No. 9 is revised to reflect a fixed administrative cost adder of \$3.97 per MWh as set forth in Exhibit NJDK-3 of Duquesne St. No. 5.

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4. LIGHTING CUSTOMERS.

- A. Duquesne Light shall offer lighting customers (Rate Schedules AL, SE, SM, SH, UMS and PAL) default service at the rates set forth in Exhibit WVP-1 of Duquesne Statement No. 4 for the period January 1, 2008, through December 31, 2010.
- B. Ancillary service and PJM administrative costs for Lighting customers will be recovered through the TSC as set forth in Exhibit NJDK-3 of Duquesne St. No. 5.

5. PURCHASE OF RECEIVABLES PROGRAM.

Duquesne Light's Purchase of Receivables ("POR") Program, as explained in the testimony of Nancy J. D. Krajovic and set forth as Exhibit NJDK-1 of Duquesne St. No. 5, is approved.

6. POWER PROCUREMENT.

Duquesne Light is authorized to procure power for its Residential, Small C&I and Lighting default service customers through an amendment to its full requirements contract with its affiliate, Duquesne Power. The amendment to the contract is approved as an affiliated interest agreement. Duquesne Power will rely on competitive wholesale market purchases in PJM to obtain power for Duquesne Light's default service customers.

7. TARIFF MODIFICATIONS.

Duquesne Light is authorized to implement the changes to its Tariff Electric Pa. P.U.C. No. 24 that are reflected in Exhibit NJDK-3 of Duquesne St. No. 5 except that the tariff will be further modified to reflect the changes that are required by this Stipulation.

8. RATE INCREASES.

Duquesne Light agrees not to seek a rate increase in default service rates (other than the adjustments specifically provided for herein with regard to Small C&I customers and as set forth in Duquesne Light's Petition and supporting testimony) 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 Light also may seek a rate increase in default service rates in the event necessary regulatory approvals to carry out the default service plan as proposed by Duquesne Light and modified by the Stipulation are not obtained or maintained or if substantial modifications are required as a result of regulatory requirements.

9. MISCELLANEOUS PROVISIONS.

- A. Except as modified herein, the Petition of Duquesne Light Company For Approval Of Default Service Plan For The Period January 1, 2008 Through December 31, 2010 is approved.

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- B. Given the recent approval of the merger settlement at Docket Nos. A-110150F0035 and A-311233F0002 by the Pennsylvania Public Utility Commission, the cost allocation/cross subsidy issues raised by Strategic Energy, LLC and the Retail Energy Supply Association have become moot in this proceeding.
- C. In the event the Commission adopts final default service regulations that become effective prior to January 1, 2011, and they apply to plans filed prior to the effective date, Duquesne Light will be granted a waiver of those regulations to the extent that they conflict with the provisions of this Stipulation.
- D. This Stipulation may not be cited as precedent in any future proceedings, except to the extent required to implement or enforce the Stipulation.
- E. It is understood and agreed among the Parties that the Stipulation is the result of compromise, and does not necessarily represent the positions that would be advanced by any party in this proceeding absent the Stipulation.
- F. The Parties will support or not oppose this Stipulation at hearing and in any briefs that are filed in this proceeding and at all stages of this proceeding going forward from the date hereof.
- G. The Stipulation may only be amended by a written document duly agreed to and executed by the Parties.
- H. The Parties stipulate that all of the pre-filed written testimony of the Parties' witnesses will be admitted into the record without objection and to waive cross examination of such testimony.

## AGREED TO BY:

/s/ David B. MacGregor

Date: 4/25/07

\_\_\_\_\_  
David B. MacGregor  
Michael W. Gang  
Anthony D. Kanagy  
Gary A. Jack  
For Duquesne Light Company

/s/ Charles Daniel Shields

Date: 3/25/07

\_\_\_\_\_  
Charles Daniel Shields  
For Office of Trial Staff

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/s/ Sharon E. Webb

William R. Lloyd, Jr.  
Sharon E. Webb  
For Office of Small Business Advocate

Date: 4/25/07

/s/ Todd S. Stewart

Todd S. Stewart  
Gary A. Jeffries  
For Dominion Retail, Inc.

Date: 4/25/07

The following parties join in the parts of the Stipulation identified below and represent to the Pennsylvania Public Utility Commission that they do not and will not oppose the remaining provisions of this Stipulation, or its terms contained herein, as resolution of this proceeding or adoption by the Commission.

/s/ Tanya J. McCloskey

Tanya J. McCloskey  
David T. Evrard  
For Office of Consumer Advocate<sup>2</sup>

Date: 4/25/07

/s/ Jerry Langdon

Jerry Langdon  
Ramona C. Cataldi  
Brian J. Knipe  
For Reliant Energy, Inc.<sup>3</sup>

Date: 4/25/07

<sup>2</sup> The Office of Consumer Advocate joins in paragraphs 1 and 5 through 9 of the Stipulation and does not oppose the remaining paragraphs.

<sup>3</sup> Reliant Energy, Inc. supports Paragraphs 3A and 3B and does not oppose the remaining paragraphs.

The following parties join in the parts of the Stipulation identified below.

/s/ David P. Zambito  
David P. Zambito  
For Constellation NewEnergy, Inc. and  
Constellation Energy Commodities Group, Inc.<sup>4</sup>

Date: 4/25/07

The following parties do not join in this Stipulation but represent to the Pennsylvania Public Utility Commission that they do not and will not oppose this Stipulation, or its terms contained herein, as resolution of this proceeding or adoption by the Commission.

/s/ Nicholas A. Pasciullo  
Nicholas A. Pasciullo  
For Conservation Consultants, Inc.

Date: 4/24/07

/s/ John E. McCaffrey  
John E. McCaffrey  
For Citizen Power, Inc.

Date: 4/25/07

/s/ Adrian D. Newall  
Kent D. Murphy  
Adrian D. Newall  
For Exelon Corporation and  
Exelon Generation Company, LLC

Date: 4/26/07

<sup>4</sup> Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. support only Paragraph 2.E. on the elimination of declining block energy rates on January 1, 2008 for small commercial and industrial customers with a monthly metered demand that is 25 kW or greater, and agree to waive the following 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.

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/s/ George Jugovic, Jr.  
George Jugovic, Jr.  
For Citizens For Pennsylvania's Future

Date: 4/25/07

/s/ Kathy J. Kolich  
Kathy J. Kolich  
For FirstEnergy Solutions Corp.

Date: 4/26/07

/s/ Paul F. Forshay  
Paul F. Forshay  
Steven S. Goldenberg  
For Pennsylvania Large Energy Users Coalition

Date: 4/25/07

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The following parties join in the parts of the Stipulation identified below and represent to the Pennsylvania Public Utility Commission that they do not and will not oppose the remaining provisions of this Stipulation, or its terms contained herein, as resolution of this proceeding or adoption by the Commission.

/s/ Kevin J. Moody \_\_\_\_\_

Date: 4/26/07

Daniel Clearfield

Kevin J. Moody

For Strategic Energy, LLC; Direct Energy, LLC and the Retail Energy Supply Association<sup>5</sup>

<sup>5</sup> Strategic, Direct and RESA support Paragraphs 3 and 5 of the Stipulation and do not oppose the remaining paragraphs.

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**Exhibit 10.1(b)**

**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 :

**STIPULATION**

Duquesne Light Company ("Duquesne Light"), 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") enter into this Stipulation to resolve all remaining issues among them in the above-captioned proceeding by joining in or agreeing not to oppose this Stipulation.

Duquesne Light will provide day ahead hourly pricing as its POLR service to its large C & I customers during the three year POLR period. Such offering shall be in accordance with the Day Ahead Pricing Guidelines, attached hereto as Exhibit A. Duquesne Light will revise its tariff in its compliance filing in this proceeding in accordance with these guidelines. It is understood the Customer shall be responsible for all operating reserve charges and other ancillary charges associated with the day-ahead hourly price service described in the attached guidelines.

It is understood and agreed among the Parties that the Stipulation is the result of compromise, and does not necessarily represent the positions that would be advanced by any party in this proceeding absent the Stipulation.

- 10 -

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EITHER AGREED TO BY OR NOT OPPOSED BY:

/s/ David B. MacGregor

Date: 5/2/07

David B. MacGregor  
Michael W. Gang  
Anthony D. Kanagy  
Gary A. Jack  
For Duquesne Light Company

/s/ Pamela C. Polacek

Date: 5/2/07

Pamela C. Polacek  
Adam L. Benshoff  
For Duquesne Industrial Intervenors

/s/ David P. Zambito (Not Opposed)

Date: 5/2/07

David P. Zambito  
For Constellation NewEnergy, Inc.  
and  
Constellation Energy Commodities  
Group, Inc.

/s/ Todd S. Stewart (Not Opposed)

Date: 5/2/07

Todd S. Stewart  
Craig R. Burgraff  
Gary A. Jeffries  
For Dominion Retail, Inc.

/s/ Paul F. Forshay (Not Opposed)

Date: 5/1/07

Paul F. Forshay  
Steven S. Goldenberg  
For Pennsylvania Large Energy  
Users Coalition

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/s/ Kevin J. Moody  
Daniel Clearfield  
Kevin J. Moody  
For Retail Energy Supply  
Association

Date: 5/1/07

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/s/ Kevin J. Moody  
Daniel Clearfield  
Kevin J. Moody  
For Direct Energy Services, LLC

Date: 5/1/07

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/s/ Jerry Langdon (In Support)  
Jerry Langdon  
Brian Knipe  
For Reliant Energy, Inc.

Date: 5/2/07

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/s/ Kevin J. Moody  
Daniel Clearfield  
Kevin J. Moody  
For Strategic Energy, LLC

Date: 5/1/07

Exhibit 10.1(c)

**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 :

**STIPULATION**

Duquesne Light Company ("Duquesne Light"), Direct Energy Services, LLC ("Direct") and the Office of Small Business Advocate ("OSBA") enter into this Stipulation to resolve all remaining issues among them in the above-captioned proceeding.

1. Direct supports or does not oppose the Stipulation among various parties dated April 25, 2007, in the above-captioned proceeding (the "General Stipulation").
2. No later than three months after the Commission's order approving this Stipulation and the General Stipulation, Duquesne Light will convene a collaborative regarding a Market Share Threshold ("MST") program offering a discount to approved POLR rates. The program will be limited to 5,000 GS and GM customers with maximum measured peak demands of less than 25 kW. Duquesne Light, the OSBA and Direct will participate in that collaborative. Other parties in the above-captioned proceeding also will be invited to participate.
3. If Duquesne Light, the OSBA and Direct agree on a proposal, it will be filed as a Joint Petition with the Commission for approval. Duquesne Light's affiliated electric generation supplier will be permitted to participate as a bidder in the MST program. The MST program shall commence on the date approved by the Pennsylvania Public Utility Commission and end on December 31, 2010.

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4. If a Joint Petition is filed, all other parties in the above-captioned proceeding shall have the right to support or oppose the Joint Petition.
  5. If the collaborative does not produce a consensus proposal by April 1, 2008, Direct may file a Petition seeking Commission approval of an MST proposal consistent with the terms set forth in Paragraphs 2 and 3.

## AGREED TO BY:

/s/ David B. MacGregor

Date: 4/26/07

David B. MacGregor  
Michael W. Gang  
Anthony D. Kanagy  
Gary A. Jack  
For Duquesne Light Company

/s/ Sharon E. Webb

Date: 4/26/07

William R. Lloyd, Jr.  
Sharon E. Webb  
For Office of Small Business  
Advocate

/s/ Kevin J. Moody

Date: 4/26/07

Daniel Clearfield  
Kevin J. Moody  
For Direct Energy Services, LLC

Affidavit of  
Pamela C. Polacek, Esquire

**APPENDIX 2**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>WHEMCO-STEEL CASTINGS, INC.</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2014-2459527</b>
	:	
<b>DUQUESNE LIGHT COMPANY</b>	:	

**AFFIDAVIT OF PAMELA C. POLACEK, ESQUIRE**

I, Pamela C. Polacek, provide this affidavit in the above referenced proceeding under penalty of perjury, and in connection therewith depose and say the following:

1. My name is Pamela C. Polacek, an attorney with the law firm of McNees Wallace & Nurick LLC.
2. My business address is 100 Pine Street, Harrisburg, PA 17101.
3. I am a member in the law firm of McNees Wallace & Nurick LLC, and practice in the Firm's Energy and Environmental Law Practice Group.
4. I have been practicing law in the Commonwealth of Pennsylvania for 18 years.
5. I have extensive experience in implementing electric supply competition in Pennsylvania and other states. I also advise clients regarding commercial, legal, regulatory and legislative opportunities and risks in the electric and natural gas industries, assist clients in analyzing and negotiating wholesale and retail natural gas and electricity contracts, as well as addressing other utility service requirements. I also represent and advise cable telephony providers, local exchange carriers and interexchange carriers, before various state and federal administrative agencies and courts.
6. I have also represented WHEMCO-Steel Castings, Inc. ("WHEMCO"), both on an individual basis and as part of a coalition of large commercial and industrial ("Large C&I") customers that from time to time intervenes in utility rate and other cases before the Pennsylvania Public Utility Commission ("Commission").
7. As a result of providing legal services to WHEMCO for a number of years, I am familiar generally with the nature of its Pennsylvania operations, its electricity usage, the electric utilities or distribution companies that provide it service, as well as competitive electric generation suppliers that sell electric supply to WHEMCO.

8. As a result of legal services provided previously to WHEMCO and other Large C&I customers in Pennsylvania, I am familiar generally with the services provided by Duquesne Light Company ("Duquesne") to its retail electric customers and the terms and conditions of its retail electric service tariff on file with and approved by the Commission from time to time ("Tariff").
9. My previous work on behalf of WHEMCO and other Large C&I customers in Pennsylvania has allowed me at various times to review and become familiar with portions of Duquesne's Tariff, and I have on occasion interpreted the Tariff and applied it to select Duquesne customers and clients including, without limitation, WHEMCO.
10. My Firm began providing legal services to WHEMCO's corporate family in connection with Pennsylvania utility law and Commission proceedings in 2003, and continues to provide such services when asked to do so.
11. This Affidavit is being made voluntarily and with the full knowledge of my law firm and WHEMCO.
12. I have reviewed and am generally familiar with the Formal Complaint filed by WHEMCO against Duquesne at Commission Docket No. C-2014-2459527 ("Formal Complaint").
13. In 2007, Duquesne filed with the Commission a default service proceeding that covered the period January 1, 2008, through December 31, 2010, at Docket No. P-00072247 ("Default Service Proceeding").
14. Shortly after the petition by Duquesne in Default Service Proceeding ("Default Service Petition") was filed with the Commission in January 2007, I reviewed that filing, including the supporting exhibits and testimony, to determine the impact the filing would likely have, if any, on my clients or other Large C&I customers located in Duquesne's service territory including, without limitation, Large C&I customers like WHEMCO.
15. I was served directly with the Default Service Petition, but have no recollection of reviewing any documents or other information indicating that the petition, exhibits and testimony were served upon WHEMCO.
16. I am aware that the Formal Complaint alleges, among other things, that Duquesne wrongfully terminated as of December 31, 2010, for Rate L customers a distribution-rate discount contained in Rider No. 5 of Duquesne's then-prevailing and Commission approved retail electric service tariff as a result of the alleged improper implementation of a settlement of the Default Service Proceeding that covered the period January 1, 2008, through December 31, 2010, at Docket No. P-00072247. I further understand that WHEMCO is seeking in the Formal Complaint a refund from

Duquesne under Section 1312 of the Public Utility Code ("Code") in the amount of \$2,480,374.16, plus interest on all unpaid amounts.

17. I provided legal representation to Large C&I customers in the Default Service Proceeding via a coalition, but WHEMCO was not included in that coalition and was not otherwise a party in that Commission proceeding.
18. Based upon my review of the Default Service Petition, supporting testimony and exhibits, I was not able to discern from the filing that Duquesne was seeking in the Default Service Proceeding to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO.
19. Based upon my review of the Default Service Petition and supporting testimony, there was no mention of Duquesne's desire and/or intent to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO.
20. From my experience, the Default Service Petition is where I would have expected to see the proposals of a filing most critical to the electric distribution company, the Commission and ratepayers, such as an intention to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO. This is particularly true where the proposed change is being made in a default service proceeding but does not relate to electric generation service.
21. From my experience, default service cases like the Default Service Proceeding focus on the procurement of default service *generation* by the local electric distribution company and the default service generation supply options that will be available to customers; default service cases generally do not address *distribution-related* rate and other matters.
22. From my experience, a default service case is not where a retail electric customer would expect and search for any changes that would affect *distribution* rates as opposed to *generation* rates, absent clear notice.
23. I read and reviewed the prepared Direct Testimony of William Pfrommer submitted by Duquesne in the Default Service Proceeding and did not interpret any portion of his testimony as stating or implying that Duquesne intended to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO.
24. In Duquesne's 2003 default service proceeding at Docket No. P-00032071, Duquesne revised its default service generation supply options for Rates L, GL and GLH to provide a fixed price option with on-peak and off-peak pricing, and an hourly price option
25. Duquesne's prepared Direct Testimony by William Pfrommer submitted at Commission Docket No. P-00032071 specifically indicated that the *generation-*



Rider No. 5

**APPENDIX 3**

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**STANDARD CONTRACT RIDERS - (Continued)****RIDER NO. 5 - TIME OF DAY DISCOUNTS**

(Applicable to Rates GS/GM, GL and L and to Rates GMH and GLH during the months of June, July, August and September only)

Where a customer has a separately measured demand and is supplied by any standard service voltage and where such customer so operates that the maximum demand created during any billing period occurs during off-peak hours, the bills will be calculated using the Billing Demand defined below on the applicable rate and any other applicable riders.

**CONTRACT DEMANDS**

The Contract On-Peak Demand is the maximum electrical capacity in kilowatts which the Company shall be required by the contract to make available during the on-peak hours to the customer.

The Contract Off-Peak Demand is the maximum electrical capacity in kilowatts which the Company shall be required by the contract to make available during the off-peak hours to the customer. The customer's minimum Billing Demand shall be no lower than one-third (33 1/3%) of the customer's Contract Off-Peak Demand.

The customer shall not establish a demand greater than 105 percent of the individual demands specified in the customer's contract unless written approval shall first have been obtained from the Company. If the customer establishes a repeated pattern of exceeding the Contract Demand, the Contract Demand may be raised to the highest demand established for the remaining term of the contract.

**DEMANDS AND ENERGIES**

The On-Peak Demand is the demand during on-peak hours. The Off-Peak Demand is the demand during off-peak hours.

Demands and energies will be determined on an individual demand basis and corresponding quantities will be combined to obtain demands and energies for billing purposes.

**Rates GL, GLH and L**

For customers on Rates GL, GLH and L who purchase their electric generation requirements from the Company, the discounts available under the provisions of this rider will apply only to the demand charges billed for distribution. The demand charges billed for generation provided under Rider No. 8 or Rider No. 9 will not be impacted by this rider. For customers on Rates GL, GLH and L who purchase their electric generation requirements from an EGS, the discounts available under the provisions of this rider will apply only to the demand charges billed for distribution service.

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STANDARD CONTRACT RIDERS - (Continued)

RIDER NO. 5 - TIME OF DAY DISCOUNTS - (Continued)

(Applicable to Rates GS/GM, GL and L and to Rates GMH and GLH during the months of June, July, August and September only)

ON-PEAK AND OFF-PEAK HOURS

The following hours will be designated as on-peak hours:

Monday through Thursday  
10:00 A.M. TO 9:00 P.M.

Friday  
10:00 A.M. TO 5:00 P.M.

The remaining hours including the generally observed holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day shall be designated as off-peak hours. The Company may, upon written notice to customers taking service under this rider and upon filing same with the Pennsylvania Public Utility Commission, make such changes in the on-peak hours as it may from time to time deem necessary.

METER CHARGE

For all customers that apply for service on Rider No. 5, a meter charge of \$24.00 will be added to the customer's monthly bill. (I)(D)

CONTRACT PROVISIONS

For customers with Contract On-Peak Demands exceeding 500 kW, contracts will be written for a period not less than two years.

(I) - Indicates Increase

(D) - Indicates Decrease

ISSUED: DECEMBER 22, 2006

EFFECTIVE: JANUARY 6, 2007

Duquesne Responses to Whemco  
Requests for Admission  
Set I, Nos. 1, 2 and 3

APPENDIX 4

**Whemco-Steel Castings, Inc. v. Duquesne Light Company**  
**Docket No. C-2014-2459527**

Whemco-Steel Castings, Inc. – Set I  
To Duquesne Light Company

Witness: Jessica Rock

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**Whemco R-1**

Duquesne cannot presently locate in its records any copy of a bill insert sent to customers purporting to advise them of the filing and/or contents of its 2007 Application relating to the Duquesne's Default Service Proceeding before the Pennsylvania Public Utility Commission ("PaPUC") at PaPUC Docket No. P-00072247 ("DSP Proceeding").

**Response:**

Revised May 12, 2015

It is admitted that as of May 11, 2015, Duquesne Light has not been able to locate a copy of the bill insert that was sent to customers. However, Duquesne Light is continuing to search its records to locate a copy of the bill insert that was sent to advise customers of the DSP Proceeding and reserves the right to update this response if it is able to locate the bill insert. Whemco has prejudiced the Company's ability to locate such records due to Whemco's failure to file its Complaint until approximately eight years after the bill insert was sent to customers.

**Whemco-Steel Castings, Inc. v. Duquesne Light Company**  
**Docket No. C-2014-2459527**

Whemco-Steel Castings, Inc. – Set I  
To Duquesne Light Company

Witness: Jessica Rock

---

**Whemco R-2**

Duquesne does not have and does not presently know the contents of any bill insert allegedly provided to customers in connection with the DSP Proceeding.

**Response:**

Revised May 12, 2015

It is admitted that as of May 11, 2015, Duquesne Light does not know the contents of the bill insert that was sent to customers. However, Duquesne Light is continuing to search its records to determine the contents of the bill insert that was sent to advise customers of the DSP Proceeding. Duquesne Light may have the bill insert in its records and reserves the right to update this response if it is able to locate the bill insert. Whemco has prejudiced the Company's ability to locate such records due to Whemco's failure to file its Complaint until approximately eight years after the bill insert was sent to customers.

**Whemco-Steel Castings, Inc. v. Duquesne Light Company**  
**Docket No. C-2014-2459527**

Whemco-Steel Castings, Inc. – Set I  
To Duquesne Light Company

Witness: Jessica Rock

---

**Whemco R-3**

Duquesne cannot presently confirm if, in any medium (e.g., notice, newspaper ad, press release, bill insert, letter, etc.) used to communicate with customers about the DSP Proceeding, it specifically advised that it intended to seek authorization from the PaPUC to terminate all discounts associated with then-existing Rider No. 5 of Duquesne's retail tariff applicable to Rate L customers.

**Response:**

Revised May 12, 2015

It is admitted that as of May 11, 2015, Duquesne Light cannot confirm that in a notice, newspaper ad, press release, bill insert or letter used to communicate with customers about the DSP proceeding, the Company specifically advised that it intended to seek authorization from the Pa. P.U.C. to terminate all discounts associated with then-existing Rider No. 5 of Duquesne Light's retail tariff applicable to Rate L customers. However, Duquesne Light is continuing to search its records to locate communications with customers about the DSP Proceeding and reserves the right to update this response if it is able to locate additional communications. Whemco has prejudiced the Company's ability to locate such records due to Whemco's failure to file its Complaint until approximately eight years after the DSP was filed. Moreover, Duquesne Light provided a pro forma tariff with the filing that eliminated Rider No. 5 for all customers and further explained in testimony that Rider No. 5 was being completely eliminated.

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

**APPENDIX 5**



411 Seventh Avenue  
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**ORIGINAL**  
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Fax 412-393-1418  
gjack@duqlight.com

January 25, 2007

Gary A. Jack  
Assistant General Counsel

VIA HAND DELIVERY

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

**RECEIVED**

JAN 25 2007

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

Dear Secretary McNulty:

Enclosed for filing, on behalf of Duquesne Light Company ("Duquesne"), please find an original and three copies of the Petition Of Duquesne Light Company For Approval Of Default Service Plan For The Period January 1, 2008 through December 31, 2010 ("Default Service Plan"). Due to the risk that Duquesne Power, LLC is incurring in holding proposed rates open under the Default Service Plan during the regulatory review period and the need to provide customers notice of the precise changes in their Price To Compare in order to facilitate retail shopping, Duquesne requests expedited approval of the Default Service Plan by July 1, 2007. To facilitate approval by this date, Duquesne has filed its direct testimony herewith and respectfully requests that the Pennsylvania Public Utility Commission ("Commission") assign this matter to the Office of Administrative Law Judge for evidentiary hearings and the issuance of a Recommended Decision as soon as possible.

Pursuant to Section 5.41(b) of the Commission' regulations, 52 Pa. Code § 5.41(b), and as indicated on the certificate of service, Duquesne is serving this Petition on the Office of Trial Staff, the Office of Consumer Advocate, and the Office of Small Business Advocate. Duquesne is also serving all parties in Duquesne's POLR III proceeding, *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service*, Docket No. P-00032071, and in Duquesne's recent distribution rate proceeding at Docket No. R-00061346. Moreover, Duquesne is providing notice of the Petition to customers through a press release, newspaper publication and a bill insert.

DOCUMENT  
FOLDER

**DOCKETED**  
JAN 31 2007

Page 2  
James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
January 25, 2007

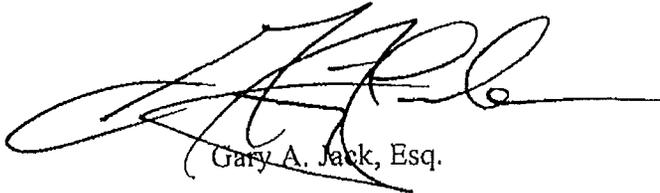
Please record me and the following attorneys as Attorneys of Record:

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In addition, please direct any questions regarding this matter to the undersigned.

Very truly yours,



Gary A. Jack, Esq.

Enclosure

c: Wendell F. Holland, Chairman  
James H. Cawley, Vice Chairman  
Terrance J. Fitzpatrick, Commissioner  
Kim Pizzingrilli, Commissioner

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Application has been served upon the following persons by first class mail on or about January 25, 2007:

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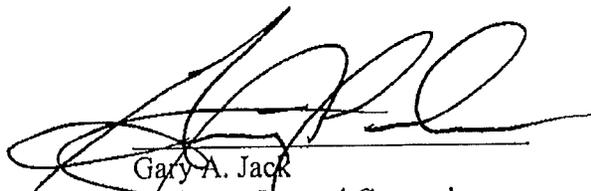
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[gjack@duqlight.com](mailto:gjack@duqlight.com)

Dated: January 25, 2007

ORIGINAL

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 :

PETITION OF DUQUESNE LIGHT COMPANY  
FOR APPROVAL OF DEFAULT SERVICE PLAN

Pursuant to Chapter 28 of the Public Utility Code and 52 Pa. Code § 5.41, Duquesne Light Company ("Duquesne Light" or the "Company") petitions the Pennsylvania Public Utility Commission ("Commission") for approval of a default service plan for the period from January 1, 2008 through December 31, 2010 ("Default Service Plan" or "Plan"), and (ii) for the issuance of certain other related approvals, described in Section IV hereof, required for the implementation of the Plan. Duquesne Light's current default service plan, commonly referred to as the POLR III Plan, expires on December 31, 2007. *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*"). Duquesne Light is filing this Petition well in advance of December 31, 2007, so that the Commission has adequate time to consider the proposals made herein. Duquesne Light respectfully requests expedited approval of the Default Service Plan on or before July 1, 2007, in order that upon approval, Duquesne Light may take the necessary actions to implement the Plan on January 1, 2008.

RECEIVED  
JAN 25 2007

PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

I. EXECUTIVE SUMMARY

A. Background

Since restructuring, Duquesne Light has implemented three very successful default service programs which have helped create the most competitive shopping environment in the Commonwealth and also have provided customers with substantial rate reductions. By this

filing, Duquesne Light seeks to build on these prior successes and proposes a three-year default service plan to serve as a transition to January 1, 2011, when the generation rate caps for most electric customers in the Commonwealth will expire. Approval of this Plan will assure that Duquesne Light's Residential customers receive default service under terms and conditions similar to that received by other Pennsylvanians. A three-year term also is consistent with the term approved by the Commission in other default service proceedings, including Duquesne Light's POLR II and POLR III proceedings.

Duquesne Light made a commitment, as part of the Settlement of its recent distribution rate proceeding, to provide stakeholders an opportunity to participate in the development of the Default Service Plan. Pursuant to that commitment, Duquesne Light solicited input from a number of interested parties. The opinions and proposals of these parties were carefully considered in the development of the Default Service Plan. As a result, Duquesne Light believes that there will be substantial support for a number of elements of the Plan from a broad cross-section of parties.

The details of Duquesne Light's Default Service Plan are set forth below and in the extensive testimony and exhibits accompanying this Petition. Before turning to these issues, however, one important matter should be addressed. The rates proposed in this filing for Residential, Small C&I and Lighting customers reflect an average increase of 10.2%, on a total bill basis, and a 17.6% increase as compared to current POLR III supply rates. These rates reflect prevailing market prices for the Default Service Plan service period and therefore should further promote retail competition in Duquesne Light's service territory. However, these increases are relatively modest, particularly when compared to the increases seen in other POLR filings which have employed an RFP or auction process. And, even with these proposed

increases, the supply rates for Residential, Small C&I and Lighting customers, on average, will still be below the regulated rate levels which were in effect under the POLR I Plan. At the same time, Duquesne continues to have, by far, the highest level of customer shopping in the Commonwealth and among the highest in the nation. These are truly remarkable results, which reflect both the extraordinary efforts of Duquesne Light and the fundamental success of electric competition, to date, in Duquesne Light's service territory. Duquesne Light's track record as a default service provider speaks for itself and fully supports approval of its proposed Default Service Plan.

**B. Proposed Default Service Rates**

The Default Service Plan consists of three plans tailored to meet the specific needs of major customer groups. For large commercial and industrial ("Large C&I") customers, Duquesne Light will offer a real time hourly market price service as the default service option. Duquesne Light does not propose to offer fixed price service to Large C&I customers. Competition for Large C&I customers in Duquesne Light's service territory is robust, with 98% of Large C&I load currently shopping. Real time hourly default service is appropriate for this mature market segment.

For small commercial and industrial ("Small C&I") customers, Duquesne Light proposes to increase rates on January 1, 2008 to reflect prevailing market prices. The average rate increase for Small C&I Rate GS/GM customers will be 9.3%, on a total bill basis. These rates will be adjusted annually, for 2009 and 2010, based upon changes in an annual forward market price index. In addition, rates will be redesigned to eliminate supply related demand charges and declining energy blocks over a three-year period. As of January 1, 2010, all Small C&I customers will pay a single energy charge for default service. These measures will promote competition by resetting rates to reflect prevailing market prices, adjusting these rates annually to

reflect changes in market conditions and by phasing out legacy rate design features. A flat usage charge also will encourage conservation.

For Residential and Lighting customers, Duquesne Light proposes to increase rates on January 1, 2008, to reflect prevailing market prices for the three-year term of the Plan (2008-2010). The average increase for Residential Rate RS customers is 9.2%, on a total bill basis; the average increase for Lighting customers is 7.4%, on a total bill basis. In addition, Duquesne Light proposes to eliminate, over a three-year period, declining energy blocks for residential heating customers. As of January 1, 2010, all Residential customers will pay a single energy charge for default service. These actions will promote retail competition by resetting rates to reflect prevailing market prices and by adopting a simplified rate structure. The Plan will also provide Residential customers rate stability, significant protection against potentially disruptive rate increases and a rate design that encourages conservation.

### **C. Power Procurement**

In order to procure power for Residential, Lighting and Small C&I customers, Duquesne Light will amend its fixed price, full requirements contract with its affiliate, Duquesne Power. Duquesne Power will rely on competitive wholesale market purchases in PJM to obtain power for Duquesne Light's customers. Duquesne Power also will assume regulatory approval, customer switching, load following and other regulatory and business related risks associated with default service supply.

Duquesne Light carefully considered obtaining default supply through a competitive procurement process, but has determined that such an approach is not appropriate at this time. There is considerable uncertainty in the outcome of a competitive procurement process, not only as to rates but as to the number of bidders. Many prior competitive procurement processes have had little or no success or have resulted in extremely high price increases. As a result, a

competitive procurement process would present considerable risks for Residential and Small C&I customers. Given that the majority of Pennsylvanians have stable generation rates through 2010, Duquesne Light believes that its Residential and Small C&I customers should not be subject to the risks associated with a competitive procurement process at this time.

**D. Determination of Prevailing Market Prices**

The rates under the Default Service Plan are based on prevailing market prices for a three-year, fixed price full requirements contract for 2008 through 2010. In order to determine prevailing market prices, Duquesne Light reviewed the results of wholesale solicitations in several states, including Pennsylvania, New Jersey, Maryland and Illinois. All of these solicitations involved full requirement default service supply to residential and/or small C&I customers, and were completed primarily within the last twelve months.

In order to compare these solicitations on an “apples to apples” basis, Duquesne Light made several adjustments to reflect the particular facts and circumstances presented in Duquesne Light’s Plan. These adjustments included stating the prices on a comparable basis, adjusting for location and timing differences and adjusting for different risk factors assumed by the various suppliers. Based upon these adjusted solicitations, Duquesne Light believes that its rates proposed under the Default Service Plan appropriately reflect prevailing market prices for a three-year, fixed price full requirements contract for 2008 through 2010.

**E. Market Enhancements**

Duquesne Light currently has the highest level of customer shopping in the Commonwealth. As of December 2006, 18% of Residential load, 19% of Small C&I load and 98% of Large C&I load in Duquesne Light’s service territory was being served by an alternative supplier. As reported by the Office of Consumer Advocate in January 2007, with regard to total shopping in the Commonwealth, the vast majority of shopping load – 95% of residential load,

81% of commercial load and 90% of industrial load – is located in Duquesne Light's service territory.

Duquesne Light's Default Service Plan contains several important features designed to further promote retail competition. As noted above, Duquesne Light proposes to reset rates for Residential and Small C&I customers to reflect prevailing market prices and to simplify its rate design to reflect market conditions to provide greater transparency to customers and suppliers.

In addition, Duquesne Light has agreed to a purchase of receivables ("POR") program whereby it will purchase the accounts receivable, without recourse, associated with EGS sales of retail electricity to Residential and Small C&I customers. The POR program provides substantial benefits to marketers by eliminating their risks associated with serving credit-troubled customers and by allowing marketers to serve these customers without incurring significant costs for upfront credit analysis, collection activities or uncollectible accounts.

Duquesne Light also will be implementing several process improvements that will promote retail competition. For example, Duquesne Light proposes to improve communications with employees concerning its Code of Conduct. In addition, as part of the settlement of its last rate case, Duquesne Light agreed to convene regular meetings with EGSs to discuss retail supplier issues and to conduct an analysis to determine whether its cost allocation procedures are appropriate. This cost analysis demonstrated that Duquesne Light is properly allocating its costs and led to the adoption of several minor changes to further improve its cost allocation procedures. Both the Commission and the Federal Energy Regulatory Commission ("FERC") have recently reviewed Duquesne Light's cost allocation procedures and have determined that they are appropriate.

## F. Conservation and Economic Development

In the rate case Settlement, Duquesne Light agreed to contribute a total of \$6 million to fund renewable energy projects and/or energy efficiency and energy education projects in its service territory. In addition, Duquesne Light promotes energy conservation through several different programs, including: (1) a Load Response Program that compensates customers for reducing demand when market prices increase; (2) a Direct Load Control Pilot Program for Residential and small commercial customers that reduces air conditioning usage during hot weather; (3) offering web based tools to assist customers in conserving energy; (4) issuing New Mover's Guide's to all consumers moving into Duquesne Light's service territory that include information on how to use energy wisely; (5) presenting conservation programs to school students; and (6) promoting conservation at the Pittsburgh Home and Garden Show.

In the rate case Settlement, Duquesne Light also agreed to evaluate the proposals of other parties regarding energy conservation and education, time of use metering and economic development and to submit proposals that it deemed to be appropriate in this default service filing. Duquesne Light has evaluated these proposals and has concluded that while they may have some merit, implementation of these proposals would be premature in this proceeding. In its discussions with parties, Duquesne Light determined that there was no consensus support for implementation of these proposals at this time. Certain parties expressed an interest in advanced metering options with time-of-use and/or seasonal rates, but only if they were optional and did not impose additional costs on customers. Others believed that such proposals should be provided by the market and not by the regulated default service provider. Duquesne Light supports coordinated statewide efforts as the most efficient and effective way to address these types of issues. For example, Duquesne Light supports and actively participates in the Commission's Demand Side Response ("DSR") working group.

With regard to economic development, in its current merger proceeding, Duquesne is proposing an economic development program under which eligible customers will receive a discount of \$3 per MWh below market prices if they create new load or expand existing load and create new jobs. The offer is available for three years per project and will be in effect until March 1, 2013. This proposal will provide important incentives for economic development in Duquesne Light's service territory.

**G. Schedule**

Duquesne requests expedited approval of this Petition, with a Commission decision on or before July 1, 2007. Under the Default Service Plan, Duquesne Power is assuming all risk of market price changes during the course of this proceeding. The longer the approval process, the greater the risk. Expedited approval also is necessary to ensure that Duquesne Power has adequate time to obtain power to provide default service to Duquesne Light customers commencing on January 1, 2008, and because of the need to inform customers of the precise changes in their Price To Compare in order to facilitate retail shopping.

To support an accelerated schedule, Duquesne Light has included its direct testimony with this Petition, and Duquesne Light will endeavor to work with parties to amicably resolve any contested issues. Indeed, as explained above, Duquesne Light already has undertaken extraordinary efforts to meet with interested parties and to reflect their input in this filing. As a result, Duquesne Light believes that there will be substantial support on a number of elements of the Plan from a broad cross-section of parties, and should permit accelerated review of this case.

For these reasons, and as explained more fully below, Duquesne Light believes that its Default Service Plan is in the public interest and should be approved.

## II. DESCRIPTION OF RELEVANT PRIOR REGULATORY PROCEEDINGS

1. Duquesne Light filed its restructuring plan under the Electricity Generation Customer Choice and Competition Act ("Competition Act") on August 1, 1997. Under its restructuring plan, Duquesne Light conducted an auction and sold its generating assets to Orion Power Midwest LP, ("Orion")<sup>1</sup>. As part of the auction process, Duquesne Light purchased its default service requirements for the transition period from Orion at a price equal to then-existing generation rate caps. This agreement protected Duquesne Light from volatile electric markets while Duquesne Light collected competitive transition charges ("CTCs") and provided customers fixed rates for default service (the "POLR I Agreement"). In addition, the auction was very successful in mitigating stranded costs. As a result, Duquesne Light's transition period was the shortest of any major utility in the Commonwealth, ending in 2002 for most customers.

2. In order to procure power to provide post-transition period default service to customers, Duquesne Light entered into a subsequent agreement (commonly referred to as the "POLR II Agreement") with Orion, under which Orion would supply power to meet Duquesne Light's default supply requirements through December 31, 2004. *Pa. PUC v. Duquesne Light Company, Petition for Approval of Plan for Post-Transition Period POLR Service*, Docket No. R-00974104 (Order entered November 30, 2000). The agreement allowed Duquesne Light to continue to provide fixed rates to all of its customers, and when combined with termination of the CTC resulted in Residential customers receiving a rate reduction on a total bill basis of 21% under POLR II. On a system-wide basis, the average rate reduction was 17%.

3. Prior to the expiration of the POLR II Plan, Duquesne Light filed a Petition with the Commission requesting approval of its POLR III Plan for the period of January 1, 2005

---

<sup>1</sup> Orion was subsequently acquired by what is currently a subsidiary of Reliant Resources, Inc. ("Reliant").

through December 31, 2010. *POLR III Order, supra*. In its POLR III Petition, Duquesne Light proposed to offer customers default service at fixed rates for a six-year period. Duquesne Light also proposed to enter into a contract with its affiliate, Duquesne Power, under which Duquesne Power would procure power necessary to provide default service to Duquesne Light's small customers. Duquesne Light chose a six-year period for the POLR III Plan in order to align its customers with the large majority of all other default service customers in the Commonwealth who remained subject to generation rate caps until December 31, 2010.

4. On August 23, 2004, the Commission approved Duquesne Light's POLR III Plan with certain modifications. *POLR III Order, supra*. Of importance here, the Commission limited the term of the POLR III Plan to three years. While not adopting a six-year term, the Commission did find that Duquesne Light's proposed rates for the first three years were consistent with prevailing market rates. In this regard, the Commission found that testimony regarding recent supply auctions in a neighboring jurisdiction in PJM and several market price analyses established that Duquesne Light's proposed rates reasonably reflected prevailing market prices.

5. As was the case with the prior two default service plans, the POLR III Plan provided important benefits to customers. Under the POLR III Plan, customers continued to receive service at fixed rates which reflected prevailing market prices, and these market-based prices continued to provide savings compared to regulated rates in effect prior to the adoption of the Competition Act. The POLR III Plan also encouraged a competitive shopping environment, and since restructuring, Duquesne Light's service territory has been, by far, the most competitive in the Commonwealth.

6. In accordance with the requirements of the Competition Act, Duquesne Light has implemented electric restructuring and three default service programs. These actions have provided important benefits to customers, such as rate reductions and rate stability and have helped create the most competitive shopping environment in the Commonwealth. In aggregate, Duquesne Light's electric restructuring and default service programs will have saved customers over \$950 million through 2010, and **at the same time**, produced the highest level of customer shopping in the Commonwealth and among the highest in the country. These are remarkable achievements.

### **III. DUQUESNE LIGHT'S DEFAULT SERVICE PLAN**

#### **A. Introduction**

7. In developing its Default Service Plan, Duquesne Light carefully balanced many considerations, including in particular the effect of the Plan on retail competition and customers' rates. During the development of the Plan, Duquesne Light went to unprecedented lengths to solicit input from interested parties, including EGSs, customer advocates and others. These efforts are discussed in detail in the direct testimony of Frederick J. Eichenmiller. While Duquesne Light did not reach a consensus on all issues, it carefully considered the proposals of other parties and has developed a balanced plan that, among other things, promotes competition, provides stable rates for Residential, Lighting and Small C&I customers and provides a bridge to 2011 when generation rate caps for most other electric customers in the Commonwealth will expire.

8. Section III.B describes the elements of the Plan for the major customer classes and sets forth the proposed rates under the Plan. Section III.C explains Duquesne Light's proposal to acquire power to supply default service customers pursuant to a contract with Duquesne Power, and the reasons that a competitive solicitation process was not proposed. This

section also demonstrates that the rates proposed in this proceeding reflect prevailing market prices and therefore comply with the legal standard that Duquesne Light acquire default supply at prevailing market prices. Section III.D explains how the Plan will promote retail competition. Section III.E addresses energy conservation, time of use metering and economic development issues. Section III.F summarizes the many benefits of the Plan. Section IV explains the related approvals that Duquesne Light is requesting in conjunction with the Plan. Section V sets forth how Duquesne Light proposes to notify potential parties of this filing and inform customers as to the proposed rate changes. In Section VI, Duquesne Light requests expedited approval of this Petition.

#### **B. Proposed Default Service Rates**

9. The Default Service Plan is not a “one size fits all” approach to default service. In developing the Plan, Duquesne Light recognized that each customer class has different characteristics, including: (1) pre-existing rate structures; (2) different abilities to accept or react to changing prices; and (3) different competitive opportunities. The Plan takes these differences into account and proposes a different solution for each of the major customer groups. A description of the principal elements of the Plan for each major customer group is provided below.

##### **1. Large C&I Customers<sup>2</sup>**

10. Duquesne Light proposes to offer Large C&I customers a real-time hourly market price default service with no fixed price service option. Pursuant to the Commission’s Reconsideration Order in the POLR III proceeding, Duquesne Light’s fixed price option for Large C&I customers expires on May 31, 2007, and currently, very few customers have elected

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<sup>2</sup> Large C&I customers are those customers that have a demand greater than 300 kilowatts (“kW”) and include rate classes GL, GLH, L and HVPS.

this option.<sup>3</sup> See Docket No. P-00032071, Reconsideration Order entered October 5, 2004, p. 24. The competitive market for Large C&I customers is quite robust, with approximately 98% of Large C&I load receiving service from EGSs. Therefore, Duquesne Light proposes to rely on EGSs to offer these customers fixed price service.

11. Duquesne Light's current default service tariff contains several riders applicable to Large C&I customers. Rider No. 9 contains the terms and conditions under which Duquesne Light provides hourly price default service to Large C&I customers. This Rider also contains provisions for recovery of administrative costs. Rider No. 9 currently contains separate charges for each of the four Large C&I rate classes, and the charge for each class has both a risk component and an administrative component. The Default Service Plan proposes to replace this structure with a single charge for all Large C&I customers. The new charge will not contain a risk component. In addition, Duquesne Light is updating these charges to reflect current costs and current default service sales. This proposal is explained further in the testimony of Duquesne Light's witness William V. Pfrommer.

12. Duquesne Light also proposes to eliminate Rider 23, the Generation Rate Adjustment switching rider. This Rider applies only to Large C&I customers that take fixed price service. Since Duquesne Light is eliminating the fixed price option, Rider 23 is no longer necessary.

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<sup>3</sup> As of December 31, 2006, only 6 out of 871 eligible customers were receiving fixed price default service from Duquesne Light.

## 2. Small C&I Customers<sup>4</sup>

13. The Default Service Plan proposes to establish Small C&I customer generation rates based on prevailing market prices and to phase out legacy rate design features, such as declining blocks and demand charges which do not reflect competitive market conditions.

14. Energy rates for Small C&I customers will be based on prevailing market prices, at the time of the filing, for a three-year fixed price, full requirements contract for 2008-2010. These rates will be adjusted for 2009 and 2010 to reflect changes based on an annual forward market price index. For example, Duquesne Light will determine the change in the index from when rates were initially established near the time of this filing to October 1, 2008, and then adjust Small C&I rates on January 1, 2009, based on this change in the index. The same procedure will be employed to set rates for 2010.

15. The rates for the Small C&I customers are shown on Exhibit WVP-1 of Mr. Pfrommer's testimony. Small C&I Rate GS/GM customers, on average, will experience a generation supply rate increase of 13.6% over POLR III supply rates. On a total bill basis, this constitutes an increase of 9.3%. The proposed generation supply rates for Small C&I Rate GS/GM customers, on average, are 3.4% lower than the generation rates which were in effect under the POLR I Plan.<sup>5</sup> Individual customers will experience different percentage increases

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<sup>4</sup> The Small C&I customers classes include Rate GS, Rate GM and Rate GMH. Rate GS has approximately 19,000 customers. Rate GS customers are not demand metered and their average usage is less than 1000 kilowatt-hours ("kWh") per month. Rate GM customers are demand metered and have diverse usage and load profiles. These customers are billed for demand for load in excess of 5 kW and for energy at declining block rates. There are approximately 33,000 Rate GM customers. Rate GMH customers are electric space heating customers. These customers are billed for demand for load in excess of 5 kW in the non-heating months and for energy at declining block rates. There are approximately 3,400 Rate GMH customers.

<sup>5</sup> In order to provide comparable figures, the rate comparisons include ancillary service and PJM administrative costs in the supply rates. In addition, the referenced POLR I rates include all generation-related charges including energy, capacity and CTC charges.

depending upon the individual rate under which they receive service and their individual usage patterns.

16. Duquesne Light currently has a declining block rate structure for Small C&I customers. This structure is a carryover from rates that existed prior to restructuring. Under this rate structure, customers are billed lower energy rates for usage over 1300 kWh per month.<sup>6</sup> For Rate GS customers, Duquesne Light proposes to eliminate the declining block rate structure as of January 1, 2008. This will simplify the rate structure and provide customers and EGSs with a clearer price to compare for purposes of retail shopping. Because very few Rate GS customers use more than 1300 kWh per month, there is only modest tail block usage, and eliminating the declining block structure will not cause disparate rate impacts.

17. By contrast, immediately eliminating declining block rates would result in substantial rate increases for certain Rate GM and Rate GMH customers. Therefore, second block rates for Rate GM and Rate GMH customers will be phased out over three years, so that as of January 1, 2010, these rates will consist of a single energy charge for default service. This will move rates to a more competitive platform over time but will avoid rate distortions that would occur by immediately eliminating this rate structure for these customers.

18. Duquesne Light's existing rate structure also includes supply related demand charges for certain Small C&I customers. Duquesne Light proposes to eliminate supply related demand charges for Small C&I customers over a three-year period. This will simplify the rate structure and promote competition while at the same time mitigating disparate rate increases. In addition, Duquesne Light's tariff includes a Rider which provides time of day discounts for

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<sup>6</sup> For rate GMH customers, this rate feature changes in the October to May heating months such that GMH customers are billed lower rates for usage over 1250 kWh per month plus 150 kWh for each kW of demand over 6 kW.

demand charges ("Rider No. 5"). Because Duquesne Light is proposing to phase out demand charges, Duquesne Light also proposes to phase out Rider No. 5.

19. In providing default service to customers, Duquesne Light incurs certain ancillary service and PJM Interconnection, LLC ("PJM") administrative costs. These costs are currently recovered as part of generation supply rates for Small C&I customers. Both PJM administrative costs and ancillary service costs are transmission-related costs imposed under the PJM Open Access Transmission Tariff ("OATT") and are properly recovered through retail transmission rates. Duquesne Light proposes to unbundle these costs from Small C&I customer supply rates and recover them through Duquesne Light's Transmission Service Charge ("TSC"). The TSC is a reconcilable charge designed to recover Duquesne Light's retail transmission costs and was approved in Duquesne Light's last distribution rate proceeding, at Docket No. R-00061346.

### **3. Residential Customers<sup>7</sup>**

20. Duquesne Light proposes to establish Residential customer generation rates based on prevailing market energy prices and to phase out, over three years, declining block energy rates for residential heating customers. As of January 1, 2010, Duquesne Light's rate structure for all Residential customers will consist of a single energy rate.

21. Default service rates for Residential customers will be established based on prevailing market prices, at the time of the filing, for a three-year, fixed price full requirements contract. These rates will be fixed for a three-year period.

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<sup>7</sup> The Residential Customer group includes Rate RS – Residential Service ("Rate RS"), Rate RH – Residential Service Heating ("Rate RH") and Rate RA – Residential Service Add-on Heat Pump ("Rate RA"). Rate RS is the Company's standard residential service rate, and the rate structure consists of a single flat energy charge per kWh. Rate RH and Rate RA are the Company's residential space heating rates. Both have the same rate structure as Rate RS during the non-heating season. During the heating season, Rate RH and Rate RA have a declining block rate structure and a reduced rate for usage greater than 500 kWh.

22. The rates for residential customers are shown on Exhibit WVP-1 of Mr. Pfrommer's testimony. Residential Rate RS customers, on average, will experience a generation supply rate increase of 17.6% over POLR III supply rates. On a total bill basis, this constitutes an increase of 9.2%. The proposed generation supply rates for Residential Rate RS customers, on average, are 9.1% lower than the generation rates which were in effect under the POLR I Plan.<sup>8</sup> Individual Residential customers will experience different percentage increases in rates depending upon the individual rate under which they receive service and their individual usage patterns.

23. Duquesne Light currently has a declining block rate structure for Residential heating customers. This structure is a carryover from rates that existed prior to restructuring. Under this rate structure, Residential heating customers are billed lower energy rates during the November through April heating season for usage over 500 kWh per month. Under the Default Service Plan, declining second block energy rates for Residential heating customers are being phased out over three years, to avoid rate distortions that would occur by immediately eliminating this rate structure. As of January 1, 2010, all residential customers will receive default service at a single energy charge, which will facilitate shopping for both customers and EGSs.

24. As with Small C&I customers, ancillary service and PJM administrative costs currently are bundled in supply rates for Residential customers. As explained above, Duquesne Light proposes to unbundle these costs from supply rates and recover them through the TSC.

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<sup>8</sup> In order to provide comparable figures, the rate comparisons include ancillary service and PJM administrative costs in the supply rates. In addition, the referenced POLR I rates include all generation-related charges including energy, capacity and CTC charges.

#### 4. Lighting Customers<sup>9</sup>

25. Duquesne Light is setting rates for Lighting customers based on an estimate of prevailing market prices, at the time of the filing, for a three-year fixed price, full requirements contract. These rates will be fixed for a three-year period.

26. The rates for Lighting customers are shown on Exhibit WVP-1 of Mr. Pfrommer's testimony. Lighting customers, on average, will experience a generation supply rate increase of 29.5% over POLR III supply rates. On a total bill basis, the average increase will be 7.4% over POLR III rates. The proposed supply rates for Lighting customers, on average, are 23.6% lower than generation rates which were in effect under the POLR I Plan.<sup>10</sup> Individual Lighting customers will experience different percentage increases in rates depending upon the rate under which they receive service.

27. As a result of the legacy effects of unbundling and the POLR III rate design, resetting rates for lighting customers will result in decreases for some customers and increases for others. Implementing these proposed changes to the lighting class rates will simplify the rates, eliminate inconsistencies between rate classes, and promote retail competition.

#### C. Power Procurement

##### 1. Duquesne Light Proposes To Acquire Default Supply From Duquesne Power At Prevailing Market Prices

28. Consistent with its POLR III plan, Duquesne Light proposes to amend its existing fixed price full requirements contract with its affiliate, Duquesne Power, to procure supply for Small C&I, Residential and Lighting customers. Duquesne Power will acquire the power needed

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<sup>9</sup> The classes defined as Lighting include Rate AL – Architectural Lighting Service, Rate SE – Street Lighting Energy, Rate SM – Street Lighting Municipal, Rate SH – Street Lighting Highway, Rate UMS – Unmetered Service and Rate PAL – Private Area Lighting.

<sup>10</sup> In order to provide comparable figures, the rate comparisons include ancillary service and PJM administrative costs in the supply rates. In addition, the referenced POLR I rates include all generation-related charges including energy, capacity and CTC charges.

to serve this load through purchases in the wholesale market. Duquesne Power also will procure alternative energy credits in order to comply with the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.1 *et seq.*

29. In order to provide increased rate certainty to customers and to provide the Commission with a concrete proposal for review, Duquesne Power has agreed to hold the proposed rates open during the regulatory review period. Duquesne Power also is assuming the risks associated with: (1) changes in sales, (2) changes in load shape during peak and off-peak periods, (3) changes in regulatory requirements, (4) supplier default, (5) shopping risks, and (6) other risks associated with providing default service supply for Duquesne Light. This commitment by Duquesne Power provides substantial benefits to customers and the Commission.

30. Duquesne Light considered obtaining default supply through a competitive procurement process, but believes that such a process should not be implemented at this time. Under a wholesale competitive solicitation process, default service customers would bear the risks that electricity prices will increase. Duquesne Light does not believe that it is appropriate to place this substantial risk on default service customers.

31. Duquesne Light's position is not mere speculation, but is supported by real life examples. For example, Pike County Light & Power conducted a single auction to set default service rates for customers, and this auction resulted in a 129% increase in generation rates. *Pa. PUC v. Pike County Light & Power Company*, Docket No. P-00052168, Order entered December 21, 2005. Also, as mentioned by the Commission in its Investigation Order entered on May 24, 2006, in *Policies to Mitigate Potential Electricity Price Increases*, Docket No. M-00061957, in Delaware, Delmarva Power Company residential customers faced a 59% rate

increase on May 1, 2006, as a result a competitive procurement process to obtain default supply. Likewise, in Maryland, residential customers of Baltimore Gas & Electric Company faced a 72% increase in electric bills on July 1, 2006, subject to deferral through a rate stabilization plan, as a result of a competitive procurement process to obtain default supply. These examples illustrate that customers bear substantial risks if default supply is obtained through a competitive procurement process. By contrast, Duquesne Light proposed Residential Rate RS supply rate increase for the period 2008 – 2010 is 17.6%.

32. In addition to the problems identified above, a competitive solicitation process may not generate many bidders. Duquesne Light conducted several competitive RFP processes – in October 2004, March 2006, and May 2006, to procure power for Large C&I customers. The first RFP process received six bids, most of which offered to supply only a limited number of tranches. The second RFP conducted in March 2006 resulted in no bids from any suppliers at any price. The Commission then made several changes to the RFP process in order to make the product more attractive to potential bidders and encourage supplier participation. Docket No. P-00032071, Order entered May 4, 2006. Even after these changes, Duquesne Light only received one bid. As this demonstrates, a competitive solicitation process may not generate many bidders.

33. Competitive solicitations also have not proven to result in higher levels of shopping. In fact, Duquesne Light has significantly higher shopping levels than other jurisdictions that have relied on competitive solicitations to establish default service.

34. The rates under the Default Service Plan are based on prevailing market prices for a three-year, fixed price full requirements contract for 2008 through 2010. A detailed analysis of how the rates were determined is included in the testimony of Neil S. Fisher. In determining prevailing market prices, Duquesne Light reviewed recent competitive solicitations in

Pennsylvania, New Jersey, Maryland and Illinois. All of the solicitations that were reviewed involve full-requirements default service supply to Residential and/or Small C&I customers and were conducted primarily in the last twelve months.

35. After reviewing the competitive solicitations, Duquesne Light adjusted the results in order to evaluate them on a comparable basis. Major adjustments included: (1) major definitional differences in the product being provided; (2) locational and timing differences; and (3) differences in risk assumption by the supplier. This analysis demonstrates that Duquesne Light's proposed default service rates appropriately reflect prevailing market prices.

**2. The Default Service Plan Satisfies The Statutory Standard Of "Acquiring Energy At Prevailing Market Prices"**

36. Duquesne Light's basic statutory obligation to provide default service is set forth in Section 2807(e)(3) of the Code, which provides as follows:

If a customer contracts for electric energy and it is not delivered or if a customer does not choose an alternative electric generation supplier, the electric distribution company or commission-approved alternative supplier shall acquire electric energy at prevailing market prices to serve that customer and shall recover fully all reasonable costs. (Emphasis added)

37. There has been some controversy regarding the meaning of this statutory provision, and in particular, the meaning of the phrase "prevailing market prices." The term is not defined by the legislature. However, in the Competition Act, the legislature has directed the Commission to "promulgate regulations to define the electric distribution company's obligation to connect and deliver and acquire electricity" under Section 2807(e)(3). At this time, the Commission has not issued final default service regulations.

38. Based upon the plain language of Section 2807(e)(3), Duquesne Light's proposed strategy for procuring power for default service customers fully complies with the statutory requirement that electric energy shall be purchased at prevailing market prices. As stated above,

under the Default Service Plan, Duquesne Light is purchasing electricity from Duquesne Power based on prevailing market prices, at the time of the filing, for a three-year, fixed price full requirements contract. The prices were developed by reviewing recent competitive auctions for full-requirements default service supply in New Jersey, Maryland, Illinois and Pennsylvania and adjusting the results of these auctions to reflect Duquesne Light's particular circumstances.

39. In other default service proceedings, some parties and commentators have argued that the term "prevailing market prices" requires the default service provider to acquire power only in the short-term, spot market. Duquesne Light does not believe that this is a correct interpretation.

40. As noted above, the term "prevailing market prices," was not defined by the legislature, and in fact, the legislature directed the Commission to issue regulations defining how EDCs acquire electricity for default customers. Under well-established case law, the Commission has very broad discretion in issuing regulations, and its exercise of discretion will be upheld unless the regulations bear no reasonable relationship to the underlying statutory provision on which they are based. *Rohrbaugh v. Pa. PUC*, 556 Pa. 199, 727 A.2d 1080 (1999). Therefore, there is no basis to argue that the legislature intended to restrict the term "prevailing market prices" to short-term, spot market prices.

41. This is also evident by the use of 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 and, in fact, the prevailing market price for the product often directly depends on the

length of time. Clearly, the existence of these products demonstrates that the prevailing market is not simply a short-term market.

42. Further, these products, including the long-term products, are available to all market participants, including EDC default providers and marketers. As such, all market participants, including default service providers, should be able to take advantage of the full range of market products.

43. In prior proceedings, the Commission has found that "prevailing market prices" are not limited to short-term prices. In Duquesne Light's POLR III proceeding, the Commission approved a three-year term for the Plan and found that Duquesne Light's proposed rates for this three-year period reflected prevailing market prices over this term. *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 Duquesne Light's POLR II Plan and also 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).

#### **D. Market Enhancements**

44. Duquesne Light already has implemented three very successful default service programs, and Duquesne Light's service territory is the most competitive in the Commonwealth. By this filing, Duquesne Light seeks to build on that success and further promote retail competition in its service territory.

45. The rate and rate structure changes under the Default Service Plan will promote competition. By raising generation rates to prevailing market prices, EGSs will have a better opportunity to serve Residential, Small C&I and Lighting customers. Phasing out declining

energy blocks and supply related demand charges also will promote competition by simplifying the rate structure and making it easier for customers and EGSs to compare offers.

46. In addition to these measures, Duquesne Light proposes to implement several additional measures that are designed to promote retail competition. Duquesne Light has agreed to implement a purchase of receivables program that all of the parties involved in Duquesne Light's prior distribution rate proceeding either support or do not oppose. In addition, Duquesne Light has conducted an analysis addressing whether any portion of Duquesne Light's operations is inappropriately subsidizing its affiliate, Duquesne Light Energy ("Duquesne Energy") to ensure that Duquesne Energy is operating on a level playing field with other EGSs. Duquesne Light also is taking or has already taken substantial additional measures to enhance competition in its service territory, including improving enforcement of its Code of Conduct, committing to utilize a marketer friendly consolidated billing program, and convening regular meetings with EGSs to discuss market development issues. These issues are discussed below.

**1. Purchase of Receivables Program**

47. In the Settlement of its last distribution rate proceeding at Docket No. R-00061346, Duquesne Light agreed to meet with parties to consider the development of a Purchase of Receivables Program ("POR") for suppliers serving Residential and Small C&I customers in Duquesne Light's service territory as an alternative to full unbundling of any default service costs in distribution rates. Shortly after the Settlement was signed, Duquesne Light developed a POR proposal and presented it to the parties for review. Over the next two months, the parties developed the POR agreement that is attached to the testimony of Nancy J. D. Krajovic.

48. Under the POR program, Duquesne Light has agreed to purchase the accounts receivable, without recourse, associated with EGS sales of retail electricity to Residential and

Small C&I customers in Duquesne Light's service territory. Duquesne Light will purchase the accounts receivable at a small discount and then seek to recover EGS receivables from customers consistent with Duquesne Light's existing collection procedures. In this Petition, Duquesne Light requests a waiver of Commission regulations and guidelines that prohibit collection procedures, including termination of service, for unpaid receivables purchased from EGSs.<sup>11</sup>

49. The POR program provides considerable benefits to both customers and EGSs. The POR program will benefit customers because EGSs that participate in the program cannot reject customers based on credit-related issues. This should create increased access to competitive options for customers that might otherwise be overlooked by EGSs due to poor credit scores or past financial troubles.

50. The POR program also provides considerable benefits to EGSs. The primary benefit is that the POR program eliminates EGSs' risks of serving payment troubled customers. This will allow EGSs to expand their markets without incurring costs associated with upfront credit analysis of customers, collection activities or uncollectible accounts in the event of non-payment.

51. Given the protections provided to EGSs under the POR program, the POR program should promote competition for Residential and Small C&I customers. Additional details regarding the POR program are provided in the testimony of Ms. Krajovic.

## **2. Enhancement of Duquesne Light/EGS Communications**

52. Another market enhancement measure involves enhancing communications between Duquesne Light and EGSs. In Duquesne Light's last rate case, certain EGSs expressed concerns about the level and quality of communications between themselves and Duquesne

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<sup>11</sup> Duquesne Light will not terminate customers for failure to pay amounts in excess of what the customer would have paid under default service rates during the non-payment period.

Light. In response to these concerns, Duquesne Light agreed to conduct several meetings each year to enhance communication between Duquesne Light and EGSs. Duquesne Light will convene two meetings per year with interested EGSs to discuss current and emerging issues associated with market development and competition. Participants will include a representative from Duquesne Light's Supplier Service Center and the operational personnel of EGSs that serve in Duquesne Light's service territory. In addition, Duquesne Light will conduct an annual meeting with interested EGSs and interested C&I customers to discuss customer choice issues. This meeting is intended to enhance customer education regarding competitive issues.

53. These annual meetings will provide a specific venue for participants to present ideas or concerns about competitive market issues and should promote competition. The meetings will allow both Duquesne Light and EGSs to hear issues of concern and to present proposals to solve market problems or promote competition.

### **3. Cost Allocation Analysis**

54. In its last distribution rate case, Duquesne Light agreed to submit an analysis in this proceeding addressing whether any portion of Duquesne Light's operations is subsidizing its affiliates, including Duquesne Energy. See Paragraph 17(b) of the Rate Case Settlement filed at Docket No. R-00061346 and approved by the Commission by Order entered on December 1, 2006. Pursuant to the Settlement, Duquesne Light has carefully reviewed its cost allocations and has presented the results of that analysis in this proceeding in the Direct Testimony of Susan S. Betta. In her analysis, Ms. Betta reviewed Duquesne Light's cost allocation procedures and determined that Duquesne Light properly allocates costs out of its regulated business and has protections in place to separate regulated and unregulated business activities. Based on the analysis, the Company implemented several minor changes to its cost allocation procedures to better reflect actual costs incurred.

55. In addition to the cost allocation analysis performed by Ms. Betta, both the Federal Energy Regulatory Commission ("FERC") and the Commission recently audited Duquesne Light's cost allocation procedures, and both found no cross-subsidization. FERC also reviewed these issues in the Duquesne Light merger proceeding and found that there was no cross-subsidization.

56. In addition to considering cost allocation issues, Ms. Betta also reviewed Duquesne Light's supply agreement with Duquesne Power under which Duquesne Power supplies energy to Duquesne Light for default service customers. Upon review of the supply agreement, Ms. Betta concluded that Duquesne Light is not subsidizing Duquesne Energy under the supply agreement. Moreover, in its recent audit, FERC also reviewed the supply agreement and did not find any cross-subsidization.

#### **4. Code of Conduct Review**

57. Duquesne Light is subject to a Code of Conduct set forth in the Commission's regulations. 52 Pa. Code § 54.122. The Code of Conduct is designed, in part, to ensure that EDCs do not give undue preference to EGSs, including affiliate EGSs. The Code of Conduct also contains provisions relating to EDC and EGS advertising, dispute resolution procedures, customer information requests and independent functioning of employees.

58. In order to assure continued compliance with the Code of Conduct requirements, Duquesne Light will require employees in the Supplier Service Center and its Major Account Representatives who have relationships with larger customers to review the Code of Conduct on a yearly basis and commit in writing to its terms. This will further ensure that key employees remember and follow the Code of Conduct's provisions, thereby ensuring that Duquesne Light does not give preferential treatment to EGSs, including its affiliate Duquesne Energy.

## **E. Energy Conservation And Economic Development**

59. Duquesne Light promotes energy conservation through several different programs. In the Settlement of its last distribution rate proceeding, Duquesne Light agreed to contribute \$6.0 million to fund renewable energy projects and/or energy efficiency and energy education projects in its service territory. Through this Settlement provision, Duquesne Light provides substantial funding for energy conservation programs in its service territory. Duquesne Light also has several other programs that are designed to promote energy conservation including a Load Response Program that compensates customers for reducing demand when market prices increase and a Direct Load Control Pilot Program for Residential and small commercial customers that reduces air conditioning usage during hot weather. In addition, on its website, Duquesne Light has tools that provide valuable information for customers regarding measures they can take to improve their energy efficiency. Duquesne Light also: (1) issues New Movers Guide's to customers moving in its service territory which include information on how to use energy wisely; (2) presents energy conservation programs to school students under the "Watt Do You Know?" program; and (3) provides energy conservation materials at the Pittsburgh Home and Garden Show. Through these programs, Duquesne Light actively educates consumers about important conservation measures they can implement to reduce energy usage.

60. In the Settlement of its last distribution rate proceeding, Duquesne Light also agreed to evaluate the proposals of other parties relating to energy conservation and education, time of use metering and economic development and to make proposals deemed by Duquesne Light to be appropriate as to such matters in this filing. Duquesne Light has considered these issues and does not believe that additional proposals on these matters are appropriate for this proceeding. In discussions with parties, Duquesne Light determined that there is a lack of consensus among the parties on these issues. There was some interest in advanced metering

options with time-of-use and/or seasonal rates, but certain parties indicated that they should only be implemented if they were optional and did not impose additional costs on customers. Others believed that these types of proposals should not be provided by the default service provider, but by other market participants. In addition, the Default Service Plan is a short term, three-year plan. Given the lack of consensus and the short term of the Plan, Duquesne Light believes that these types of issues may be more appropriately considered on a statewide basis after rate caps for all EDCs have expired. In this regard, the Commission has established a Demand Side Response (“DSR”) working group to investigate reasonable, cost-effective programs that EDCs, EGSs and other stakeholders can implement to help customers conserve energy or use it more efficiently. *Investigation of Conservation, Energy Efficiency Activities, and Demand Side Response by Energy Utilities and Ratemaking Mechanisms to Promote Such Efforts*, Docket No. M-00061984, Order entered October 11, 2006. Duquesne Light is an active party in the DSR working group and supports the Commission’s efforts in this regard.

#### **F. Benefits of the Default Service Plan**

61. The Default Service Plan is designed to provide many benefits for customers and marketers. These benefits include promoting competition, providing stable rates for Residential, Lighting and Small C&I customers, providing a bridge to 2011 when generation rate caps for most other remaining utility customers will expire, and promoting conservation.

62. A primary benefit of the Default Service Plan is that it promotes competition for all customer classes in Duquesne Light’s service territory. The Plan promotes competition by:

- Providing POLR service to Large C&I customers at real time hourly prices.
- Completely eliminating switching restrictions other than the switching rules required by regulation.
- Setting Small C&I customers’ rates to prevailing market levels with annual adjustments to reflect changes in market conditions.

- Setting Residential customers' rates to prevailing market levels.
- Eliminating supply related demand charges and declining energy blocks for Small C&I customers.
- *Eliminating declining energy blocks for Residential customers.*
- Adopting the Purchase of Receivables program.
- Scheduling annual meetings with EGSs to discuss market issues.
- Reviewing cost allocation and Code of Conduct procedures to assure that services are provided on a non-discriminatory basis.

63. In addition to promoting competition, the Default Service Plan provides other substantial benefits. These benefits include:

- Providing rate stability for Residential and Small C&I customers at rates which are only modestly above current rates and are below rates in effect under the POLR I Plan.
- Ensuring Residential and Small C&I customers do not experience rate shock after the POLR III plan expires.
- Holding proposed rates open during the regulatory review period.
- Providing a bridge to 2011 when generation rate caps for most other utility customers expire.
- Promoting conservation through changes in rate design.

64. For these reasons, and as further explained in this Petition, Duquesne Light believes that its Default Service Plan is in the public interest and should be approved.

#### **IV. RELATED APPROVALS**

65. In addition to approving the Default Service Plan, Duquesne also requests several additional approvals by the Commission.

66. First, Duquesne Light requests that the Commission issue an order in this proceeding stating that if the Commission's default service regulations become effective prior to January 1, 2011, Duquesne Light will be granted a waiver of those regulations to the extent that

they conflict with the provisions of the Default Service Plan. This waiver is necessary in order for Duquesne Power to procure supply for Duquesne Light's default service customers. As indicated above, Duquesne Power is assuming considerable risks under the Default Service Plan, and Duquesne Light respectfully requests that the Commission eliminate the risk that the final default service regulations could override the terms and conditions of this Plan.

67. Second, as set forth in this Petition, Duquesne Light has agreed to purchase the receivables associated with EGS sales of electricity to Residential and Small C&I customers in Duquesne Light's service territory. The Agreement to establish the POR program permits Duquesne Light to terminate delivery and EGS commodity service to customers whose accounts receivable were purchased and who fail to make payments of amounts due on their bill. Any termination shall be consistent with the provisions of Chapter 14 of the Public Utility Code and Chapter 56 (or a successor chapter) of the Commission's regulations. However, Duquesne Light will not terminate EGS' customers for failure to pay EGS supply rates that are higher than Duquesne Light's default service rates during the non-payment period. Duquesne Light requests that the Commission approve the POR program and grant any waivers that may be necessary for Duquesne Light to terminate customers under the program including waiver of: (1) the Commission's guidelines in *Final Order Re: Guideline for Maintaining Customer Services at the Same Level of Quality pursuant to 66 Pa.C.S. § 2807(D) and Assuring Conformance with 52 Pa. Code Chapter 56 pursuant to 66 Pa.C.S. § 2809 (E) and (F)*, Docket No. M-00960890F0011, Order entered July 11, 1997; (2) any provision of Chapter 56 that would prevent Duquesne Light from terminating customers for failure to pay receivables purchased from EGSs; and (3) any other regulation, policy or guideline, to the extent necessary, for Duquesne Light to implement all of the terms and conditions of its POR program.

68. Finally, in the POLR III proceeding, the Commission approved the Duquesne – Duquesne Power supply arrangements as an affiliated interest agreement pursuant to Section 2102(b) of the Code for a six-year term, or until December 31, 2010. Under the Default Service Plan, Duquesne Light is updating its power supply contract with Duquesne Power to purchase power to supply default service to Small C&I, Residential and Lighting customers. When this agreement is finalized, Duquesne Light will submit it to the Commission for review and approval in this proceeding. Because Duquesne Light is only making minor modifications to this agreement and to update the prices, Duquesne Light does not anticipate that the modifications will be controversial.

#### **V. CUSTOMER NOTIFICATION**

69. As indicated by the enclosed certificate of service, Duquesne Light has served a copy of this Petition upon all of the parties to Duquesne Light's most recent rate proceeding at Docket No. R-00061346 and to its POLR III proceeding, at Docket No. P-00032071. In addition, Duquesne Light is providing notice of the Default Service Plan to customers through a bill insert.

#### **VI. REQUEST FOR EXPEDITED APPROVAL**

70. Duquesne Light respectfully requests expedited approval of this Petition such that the Default Service Plan is approved by July 1, 2007. To facilitate approval by this date, Duquesne Light has filed its direct testimony along with this Petition, and respectfully requests the Commission to assign this matter to the Office of ALJ for evidentiary hearings and the issuance of a Recommended Decision as soon as possible.

71. Approval by July 1, 2007 is necessary so that Duquesne Power will be able to complete, in a timely manner, the wholesale purchase of baseload energy, capacity, peaking power and other services to provide default service to Duquesne Light's Residential, Small C&I

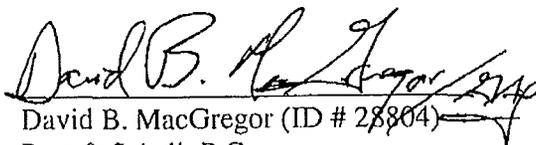
and Lighting customers and the need to provide customers notice of the precise changes in their Price To Compare in order to facilitate retail shopping.

72. In addition, as explained above, Duquesne Power has assumed considerable risk in holding proposed rates open through the regulatory review period. Expedited review by the Commission will help minimize this risk.

73. As indicated above, Duquesne Light went to unprecedented lengths to meet with parties prior to filing this Plan in order to receive their input. Duquesne Light anticipates that there will be substantial support for many elements of its Plan, which will support an expedited schedule in this proceeding.

74. WHEREFORE, for all of the foregoing reasons, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission approve the Default Service Plan as proposed in this Petition by July 1, 2007, approve the tariff sheets that are provided as Exhibits to the testimony of Nancy J. D. Krajovic, issue all approvals required under the Public Utility Code, and grant any additional relief that is just and reasonable under the circumstances.

Respectfully submitted,



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E-mail: gjack@duqlight.com

Of Counsel:

Post & Schell, P.C.

Date: January 25, 2007

Attorneys for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**AFFIDAVIT**

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I, Frederick J. Eichenmiller, being duly sworn according to law, depose and say that I am Director, Rates & Regulatory Affairs of Duquesne Light Company; that I am authorized to and do make this affidavit for it; and that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge, information, and belief, and I expect the said Duquesne Light Company to be able to prove the same at any hearing hereof.

*Frederick J. Eichenmiller*  
Frederick J. Eichenmiller  
Director, Rates & Regulatory Affairs

Sworn and subscribed before me  
this 23rd day of January, 2007.

*Mary Jane Hammer*  
\_\_\_\_\_  
Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal  
Mary Jane Hammer, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires Oct. 6, 2007

Member, Pennsylvania Association of Notaries

**RECEIVED**

JAN 8 5 2007

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Direct Testimony of  
William V. Pfrommer

APPENDIX 6

DUQUESNE STATEMENT NO. 4

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition Of Duquesne Light Company :  
For Approval Of Default Service Plan :  
For The Period January 1, 2008 :  
Through December 31, 2010 :

Docket No. P-\_\_\_\_\_

RECEIVED

JAN 25 2007

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

DIRECT TESTIMONY OF  
WILLIAM V. PFROMMER

Dated: January 25, 2007

**DIRECT TESTIMONY OF WILLIAM V. PFROMMER**

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**Q. Please state your full name and business address.**

A. My name is William V. Pfrommer. My business address is Duquesne Light Company, 411 Seventh Avenue, Pittsburgh, PA 15219.

**Q. What is your position at Duquesne Light Company?**

A. I am employed by Duquesne Light Company ("Duquesne Light", "Duquesne" or "Company") as the Manager, Rates.

**Q. How long have you worked at Duquesne Light?**

A. I have been employed by Duquesne Light, Duquesne Holdings or its subsidiaries for 24 years.

**Q. What are your current responsibilities?**

A. I am responsible for overseeing the Company's retail rates and wholesale transmission rates, which includes supervising the preparation, development and implementation of the transmission and distribution rates proposed in this proceeding. In addition, it is my responsibility to ensure the rates are properly applied to customer bills.

**Q. What are your qualifications, work experience and educational background?**

A. I received a Bachelor of Science Degree in Mechanical Engineering from Grove City College in 1978 and a Masters in Business Administration from the University of Pittsburgh in 1989. I was employed by Westinghouse Air Brake Company in 1978 and performed various duties as a staff engineer. I began my career at the Company in 1982 as a Project Engineer in the Engineering and Construction Division at the Beaver Valley Power Station. Over the last 24 years, I have held staff, supervisory and managerial positions in engineering, nuclear construction, customer technical services, marketing and rates. In the Rate Department at Duquesne, I was responsible for the calculations to unbundle the

1 rates to support the implementation of electric utility restructuring and customer  
2 choice in Pennsylvania. I also worked at AquaSource, Inc., the previous water  
3 and wastewater subsidiary of DQE, Inc. While at AquaSource, I was General  
4 Manager of Rates, responsible for analyzing the adequacy of rates, providing  
5 direction to regional controllers on all regulatory matters, and maintaining the  
6 tariffs in the 12 states where AquaSource had utility operations. I testified before  
7 the Pennsylvania Public Utility Commission ("Commission") on rate design  
8 matters in the Company's Provider of Last Resort ("POLR") proceeding at Docket  
9 P-00032071. I also provided rate design testimony in the form of an affidavit  
10 before the Federal Energy Regulatory Commission ("FERC") at Docket No.  
11 ER05-85-000 for changes to the PJM Open Access Transmission Tariff ("PJM  
12 OATT") to integrate the Company into the PJM Interconnection, L.L.C. ("PJM")  
13 markets and tariff effective January 1, 2005. Most recently, I testified in the  
14 Company's distribution rate case proceeding at Docket R-00061346. I am a  
15 licensed professional engineer in the Commonwealth of Pennsylvania.

16  
17 **Q. What is the purpose of your direct testimony regarding the Company's**  
18 **request for default service supply rates?**

19 **A.** The purpose of my testimony is to address the following items regarding the  
20 Company's proposed default service plan:

- 21 1. Describe the proposed changes to Duquesne's retail rate structure and the  
22 rationale for those changes. This will include a description of the  
23 necessary changes to Duquesne's retail tariff to implement the proposed  
24 default service plan.
- 25 2. Sponsor a schedule of the supply rates for residential, small commercial  
26 and industrial ("small C&I"), and lighting customers.
- 27 3. Describe the proposed changes to the Company's transmission rates to  
28 recover ancillary services and PJM administrative costs.
- 29 4. Sponsor a schedule of class average rates and comparison to current rates.
- 30 5. Describe the proposed rate for large commercial and industrial ("large  
31 C&I") customers.

32  
33

1 Q. Are you sponsoring any exhibits as part of your direct testimony?

2 A. Yes. I am sponsoring the following exhibits attached to my testimony:

<u>Exhibit</u>	<u>Description</u>
WVP-1	Supply Rates by Rate Schedule 2008-2010
WVP-2	Rate Class Average Rates 2008-2010
WVP-3	Supply Rate Comparison to Current Rates
WVP-4	Total Bill Comparison to Current Rates
WVP-5	Supply Rate Comparison to Restructuring Rates

3

4 Q. Please explain how these exhibits were prepared?

5 A. All exhibits were prepared either by me or under my direct supervision. They  
6 were prepared, to the best of my knowledge, in accordance with Commission  
7 requirements and practice.

8

9 Q. How is your testimony organized?

10 A. My testimony may be summarized as follows. First, I will discuss the proposed  
11 rate design for the small customer classes, i.e., residential, small C&I and lighting  
12 classes. Second, I will discuss the proposed supply rates for the small customer  
13 classes including the Company's proposal to adjust retail transmission rates to  
14 recover the costs for ancillary services and PJM administrative costs. Third, I will  
15 discuss the proposed class average rate impact by rate schedule for the small  
16 customer classes. Finally, I will describe the Company's rate proposal for large  
17 C&I customers.

18

19 **I. SMALL CUSTOMER RATE DESIGN**

20

21 Q. What rate classes are affected by the small customer rate design?

22 A. The small customer classes include residential rates RS, RH and RA; small C&I  
23 rates include GS/GM and GMH and all of the lighting classes including AL, SE,  
24 SM, SH, UMS and PAL.

25

26 Q. What were your overall objectives in designing the proposed supply rates for  
27 these customer classes?

1 A. There were five objectives in designing the proposed supply rates. The first  
2 objective was to reset the rates to reflect prevailing market prices. This was  
3 necessary to eliminate below market rates that discourage conservation and do not  
4 provide customers with an opportunity to shop. This will promote competition  
5 and will ensure the Company is moving forward to develop retail rates that better  
6 reflect market prices.

7 The second objective was to move to a single, flat energy charge for each  
8 rate class by 2010. The current rate structure for supply includes demand charges  
9 and declining energy block rates. These supply charges are not indicative of  
10 competitive market prices and can make it more difficult for customers to  
11 compare offers from alternative electric suppliers. This objective will establish a  
12 simple price comparison with electric generation supplier ("EGS") offers.

13 Third, the Company wanted to address instances of inconsistent rates  
14 among rate classes that resulted from the restructuring of the Company in  
15 accordance with the Electricity Generation Customer Choice and Competition Act  
16 ("Competition Act"). Part of this objective is to achieve more inter-class and  
17 intra-class consistency among rate classes and customer classes through rational  
18 rates consistent with market prices and specific to the characteristics of each class.

19 The fourth objective was to evaluate the rate class and monthly bill  
20 impacts associated with the first three objectives and mitigate significant bill  
21 impacts. The Company recognizes that eliminating demand charges and  
22 declining block rates to move toward a single energy-based charge in one step  
23 could result in disparate impacts on certain individual customers. Therefore, the  
24 Company proposes to phase-in the proposed rate design for several rate classes  
25 over a three-year period (2008-2010). This is an important consideration for  
26 heating class customers who currently have rates that are below market prices and  
27 may experience above average increases in their rates as declining blocks are  
28 eliminated.

29 Fifth, the Company wanted to align Duquesne's retail transmission rates  
30 more closely with PJM's transmission charges to all load serving entities  
31 (including Duquesne and EGSs). To accomplish this objective, the Company

1 recently filed and obtained Commission approval for a transmission service  
2 charge ("TSC") that will adjust annually. As part of this initiative, the Company  
3 proposes to move the charges for PJM administrative costs and ancillary services  
4 from supply rates to the TSC so that these costs also will more closely follow  
5 PJM charges.

6 This approach to rate design, as a whole, enables the Company to balance  
7 its objectives of reflecting market prices, simplifying rates for customers and  
8 EGSs, and mitigating disparate rate impacts. Combined, they should promote  
9 retail competition and better enable retail customers to understand the charges and  
10 prices of the market.

11  
12 **Q. What was the starting point for developing supply rates for residential, small  
13 C&I and lighting customers?**

14 A. I used the average energy supply rates by customer class (residential, small C&I  
15 and lighting) described by Mr. Fisher and summarized in Table No. 1 as the  
16 starting point for rate design. These average supply rates include adjustments for  
17 rate class specific line losses and load profiles. This enabled me to analyze the  
18 class and monthly impacts of implementing a single energy price and determine  
19 what, if any, rate changes should be phased-in over time.

20  
21 **Table No. 1 Average Supply Rates**

Customer Class	Applicable Rate Classes	Average Rate Cents/kWh
Residential	RS, RH, RA	7.156
Small C&I	GS/GM, GMH	7.083
Unmetered Service	UMS	6.718
Lighting	AL, SE, SM, SH, PAL	5.923

22  
23 **Q. What changes are you proposing to the rate design of the residential rate  
24 classes?**

25 A. Rate RS, with about 500,000 customers, is the Company's standard residential  
26 service rate. This rate is currently a single flat energy charge per kilowatt-hour

1 ("kWh"). The rate will be reset to the supply rate in Table No. 1 with no changes  
2 in rate design.

3 Rate RH and rate RA (with approximately 25,000 and 3,300 customers,  
4 respectively) are the Company's residential space heating rates. Both have the  
5 same rate structure as rate RS during the May through October non-heating  
6 season, but have a declining block rate structure and a reduced rate for usage  
7 greater than 500 kWh during the November through April heating season. These  
8 rates for usage greater than 500 kWh (2.6133 ¢/kWh for RH and 2.702 ¢/kWh for  
9 RA) are currently below current market prices, and as expected, customer  
10 shopping for these classes is very low. For example, less than 1% of rate RH  
11 customers are shopping with an EGS.

12 For the proposed supply rates, the same rate RS energy charge will apply  
13 during the non-heating season for rate RH and RA customers since customers in  
14 these three rate classes, in general, have similar usage characteristics during these  
15 months. The two-step declining block rate design will be retained to mitigate rate  
16 impacts during the heating season, but will be phased-out over three years. The  
17 supply rate for usage up to 500 kWh per month during the heating season will be  
18 the same rate applicable during the May to October non-heating season. The  
19 current tail block rates for usage in excess of 500 kWh per month for RH and RA  
20 will be increased on January 1, 2008, 2009 and 2010 so that the declining block  
21 structure is eliminated by 2010 and all residential customers are charged the same  
22 supply rate.

23 The proposed rate structures for RH and RA are consistent with  
24 simplification of the rate design, inter-class consistency, improving economic  
25 price signals, and understandability by customers.

26  
27 **Q. Why do you propose to phase-in the supply rate increases for rate classes RH  
28 and RA?**

29 **A.** The Company believes that it is important to phase-in significant changes in rate  
30 structure to mitigate rate impacts, especially for rates that have been in place for  
31 over 20 years. The average rate a customer will be charged on these rate classes

1 will depend on their individual monthly usage and should be considered on an  
2 annual basis. As proposed, all residential customers will pay the same rate during  
3 the non-heating season and for the first 500 kWh during the heating season. The  
4 Company is proposing a modest increase to the rate for usage in excess of 500  
5 kWh in 2008. Therefore, the effect on the average rate on an annual basis will  
6 depend on the customer's actual usage during the heating season. While not  
7 moving all the way to a single energy price in 2008, this proposal provides a  
8 measured approach that achieves the Company's objective in 2010.

9  
10 **Q. Please describe the current rate structure applicable to small C&I rate**  
11 **classes.**

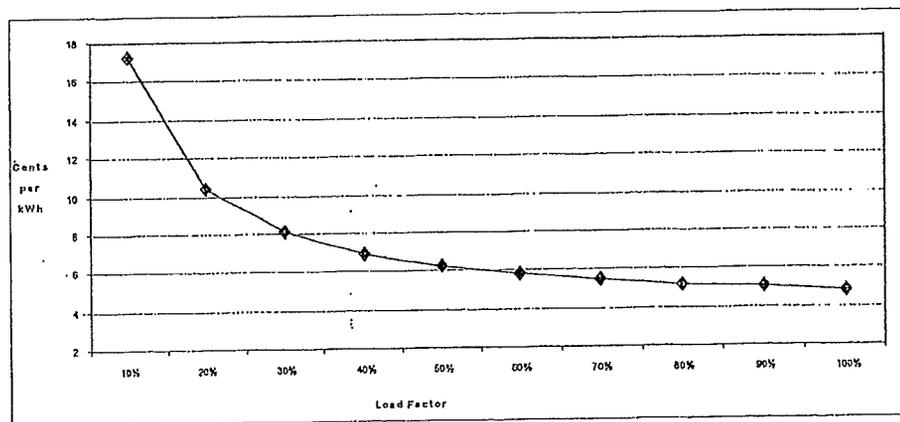
12 **A.** General service small and medium rates (GS/GM) and the general service  
13 medium heating rate (GMH) constitute the small C&I rate class. Rate GS/GM,  
14 with approximately 52,000 customers, has the second largest number of  
15 customers of all rate schedules. Within this rate class, there are approximately  
16 19,000 rate GS customers. These customers are not demand metered and their  
17 average usage is less than 1,000 kWh per month. There are approximately 33,000  
18 rate GM customers, all of whom are demand metered with diverse usage and load  
19 profiles. Rate GM customers are billed for metered demand in excess of 5  
20 kilowatts ("kW") at \$9.28/kW and for energy at a declining block energy rate of  
21 3.4824 ¢/kWh, neither of which reflect current market prices.

22 Rate GMH is the complementary electric space-heating rate to general  
23 service rate GM. There are approximately 3,400 customers on rate GMH. During  
24 the non-heating season, these customers are billed according to the same rate  
25 structure as rate GM though at different rates. During the heating season, these  
26 customers are billed using a variable, two-step declining block energy rate  
27 structure, the legacy of pre-restructuring rates. The current energy rate for the  
28 second block (3.0442 ¢/kWh) is also below current market prices.

29  
30 **Q. What changes are you proposing to the rate design of the small C&I rate**  
31 **classes?**

1 A. Duquesne proposes to simplify the existing rate structure for both rate classes by  
2 implementing a single energy rate for all small C&I customers. This will simplify  
3 price comparisons with competitive EGS offers. By 2010, Duquesne will  
4 eliminate existing demand charges that do not reflect current market prices and  
5 eliminate declining energy block rates that are below market levels and  
6 discourage conservation. Demand charges of the current magnitude are not  
7 reflective of market prices and produce significant diversity in a customer's  
8 average supply charge within rate GM depending on the customer's monthly load  
9 factor. Load factor is defined as the kWh consumed by the customer divided by  
10 their monthly-metered demand in kW divided by the number of hours in the  
11 month. Graph No. 1 shows the average supply charge in cents per kWh for a rate  
12 GM customer with a 20 kW billed meter demand at current supply rates at various  
13 load factors under the current rate structure.

14  
15 **Graph No. 1 Rate GM Average Supply Rate at Various Load Factors**



16  
17 As shown, the average supply charge varies from just below 5 cents per kWh to  
18 over 17 cents per kWh depending on load factor. This is the result of using the  
19 non-coincident peak demand to determine a customer's supply-related demand  
20 charge and the high level of current demand charges in today's retail rates.  
21 Market capacity costs represent a relatively small component of total supply costs,  
22 and there is little economic justification for this variation.

1 Combined, this proposed rate design reduces class diversity of supply  
2 rates over time while mitigating rate impacts to the smallest customers,  
3 simplifying the rate structure, and implementing a rate structure consistent with  
4 market price structures.

5  
6 **Q. Please describe how you have redesigned the small C&I rates to eliminate  
7 demand charges and declining block rates.**

8 **A.** Similar to the residential rate design, I used the energy charge for rates GS/GM  
9 and GMH in Table No. 1 as the basis for rate design.

10 Rate GS customers on average use 300 kWh/month and the majority use  
11 less than 1,000 kWh/month. They are billed according to the rate GS/GM rate  
12 structure which is a flat energy charge up to 1300 kWh per month. Therefore,  
13 rate GS customers will continue to be charged a single rate for all usage equal to  
14 the supply rate in Table No. 1.

15 For rate GM, however, a different approach was used because of the  
16 diversity of the customers, as noted above. Fully eliminating demand charges and  
17 declining block rates for rate GM will impact monthly bills differently depending  
18 on the individual customer's load factor (i.e. their consumption relative to their  
19 monthly metered demand). By fully eliminating demand charges, low load factor  
20 customers would see a decrease in their monthly bill and high load factor  
21 customers would see an increase. Whether a customer would see an increase or  
22 decrease in their supply charges would depend on their load factor and the  
23 proposed supply rate in Table No. 1. To allow customers to adjust to this change  
24 in the supply charge rate structure, the Company proposes to phase-out the  
25 demand charges and declining block rates to transition all customers to a flat  
26 energy supply rate. The demand charges will be reduced equally each year until  
27 they are completely phased-out in 2010. An offsetting increase will be made to  
28 the current tail block energy rates so that by 2010 only a flat energy rate per kWh  
29 will be in place. Therefore, customers will be affected based on their specific  
30 load and usage characteristics while the rate class average supply charge will be  
31 that shown in Table No. 1.

1

2 **Q. Please describe the proposed changes to rate GMH.**

3 A. The Company proposes to change the rate design using principles similar to those  
4 used for residential heating rates. Heating customers will be billed the same  
5 demand and energy charges as general service rate GM during the non-heating  
6 season months. For the heating season, the current variable two-block energy rate  
7 structure will be retained to mitigate customer rate impacts, but phased-out over  
8 three years. The energy-based rates for the first energy block during the heating  
9 season will be reset to equal the supply rate identified in Table No. 1. Similar to  
10 the proposed rate design for the residential space heating rates, the second block  
11 winter usage charge for rate GMH will be increased equally on January 1, 2008,  
12 2009 and 2010 so that the declining block structure is eliminated by 2010 and the  
13 supply rate equals the rate GM supply charge rate in 2010.

14

15 **Q. Will these proposed changes to the small C&I rate schedules effect any other**  
16 **charges applicable to these rate schedules?**

17 A. Yes. The minimum charges associated with these rate schedules have been  
18 modified to be consistent with the proposed POLR supply rates and elimination of  
19 demand charges. In addition, Rider 5 is the Company's Time of Day discount to  
20 demand charges that is a legacy of pre-restructuring rate design when the  
21 Company owned generation. The rider provides a discount to demand charges  
22 associated with the monthly meter read. Since the Company is proposing to phase  
23 out the demand charges for rates GM and GMH, it does not make sense to keep  
24 this rider for discounts applicable only to distribution charges. The Company  
25 proposes to completely eliminate this rider effective January 1, 2010. Phasing-out  
26 this rider over time will allow customers to modify their operation to the extent  
27 possible and enable them to become accustomed to the new rate structure.

28

29 **Q. What changes are you proposing to the rate design for the lighting classes?**

30 A. Duquesne is not proposing any changes to the rate design for the lighting classes,  
31 but will reset the average rate levels for each rate class to the supply price defined

1 in Table No. 1. As a group, the lighting classes currently consist of a diverse mix  
2 of charges and rate design. However, the majority of lighting customers pay a flat  
3 rate per fixture per month based on the lamp wattage and nominal monthly kWh  
4 usage specific to each fixture. Duquesne is not proposing to change this rate  
5 structure for lighting customers. Duquesne will calculate a new flat monthly rate  
6 per fixture using the monthly kWh consumption per fixture and the supply price  
7 defined in Table No. 1. In some cases, as a result of the legacy effects of  
8 unbundling and POLR III rate design, this will result in both average rate  
9 increases and decreases. However, the proposed rate design will result in all  
10 lighting customers paying the same supply rate on a cents per kWh basis.  
11 Implementing these proposed changes to the lighting class rates achieves the  
12 objective of simplifying the rates and eliminating inconsistencies by better  
13 aligning inter and intra-class charges with market price levels.  
14

## 15 II. SMALL CUSTOMER RATES

16  
17 **Q. What changes are you proposing to the rates of the small customer rate**  
18 **classes?**

19 **A.** The Company is proposing three changes to the small customer rates. First, the  
20 supply rates will be reset to prevailing market prices defined in Table No. 1.  
21 Second, using the market index adjustment factor described by Mr. Fisher,  
22 Duquesne Light will adjust the 2009 and 2010 rates up or down based on changes  
23 in market prices prior to the start of each calendar year. Third, the Company  
24 proposes to recover ancillary services and PJM administrative expenses in  
25 transmission rates. The Company proposes to recover these costs through the  
26 recently approved TSC.  
27

28 **Q. Have you prepared an exhibit that summarizes the supply rates the**  
29 **Company proposes to include in its retail tariff?**

1 A. Yes. Exhibit WVP-1 summarizes the proposed supply rates for each rate  
2 schedule for each year for 2008-2010. These rates are also shown for each year in  
3 the proposed tariff supplement sponsored by Ms. Krajovic as Exhibit NJDK-3.  
4

5 **Q. Please describe the second change, how you will revise the small C&I rates**  
6 **annually based on a market price index.**

7 A. Mr. Fisher describes the proposed market price multiplier that will be applied to  
8 the supply rates for GS/GM and GMH shown in Exhibit WVP-1. As described by  
9 Mr. Fisher, this is a transparent market index adjustment mechanism to adjust the  
10 small C&I supply rates, upward or downward, depending on changes in market  
11 price indices. The proposed supply rates in Exhibit WVP-1 assume no changes  
12 over the 2008-2010 period (i.e., a multiplier of 1.00). The Company proposes to  
13 implement the 2008 supply rates in Exhibit WVP-1 effective January 1, 2008. No  
14 later than October 1, 2008, the Company will submit a filing to the Commission  
15 adjusting the 2009 rates in Exhibit WVP-1 by the index multiplier described by  
16 Mr. Fisher for 2009. Both the demand and energy charges will be multiplied by  
17 the index multiplier to calculate new rates that will become effective for usage on  
18 or after January 1, 2009. The same index multiplier will also be applied to the  
19 supply charges of rate GMH shown in Exhibit WVP-1 for 2009.

20 The same methodology will be used to adjust rates in 2010. The Company  
21 will apply the appropriate index multiplier for 2010 to each GS/GM and GMH  
22 supply rate component shown in Exhibit WVP-1 for 2010. No later than October  
23 1, 2009, the Company will submit a filing to the Commission establishing the  
24 revised supply rates for GS/GM and GMH. Effective January 1, 2010, demand  
25 charges, declining block energy charges, and declining block seasonal rates will  
26 be eliminated and replaced with a single flat energy rate for all small C&I  
27 customers.  
28

29 **Q. Have you prepared an example calculation showing how this market index**  
30 **adjustment will work?**

1 A. Yes. Table No. 2 provides a calculation based on a hypothetical market index  
 2 adjustment for 2009 for rate GM. The 2009 proposed rates are the same rates  
 3 identified in Exhibit WVP-1. These rates will simply be multiplied by the market  
 4 price multiplier to calculate the adjusted rates the Company would file with the  
 5 Commission on October 1, 2008.

6  
 7 **Table No.2 Market Index Adjustment Example Calculation**

		2009 Rates	2009 Index Adjusted Rates
Market Price Multiplier			0.975.
Demand Charge	\$/kW/Month	\$3.09	\$3.01
First 1,300 kWh	Cents/kWh	7.0830	6.9059
Additional kWh	Cent/kWh	6.1840	6.0294

8  
 9 **Q. What changes are necessary to the tariff describing this annual adjustment?**

10 A. The Company is proposing two changes to the tariff to implement this change.  
 11 First, Rider No. 20 has been added to the tariff supplement attached as Exhibit  
 12 NJDK-3 to Ms. Krajovic's testimony. The purpose of Rider No. 20 is to describe  
 13 the process by which the Company will calculate the rate multiplier that will be  
 14 applied to the supply charges in rate schedules GS/GM and GMH for 2009 and  
 15 2010.

16 Second, the "Electric Charges" language of rate schedules GS/GM and  
 17 GMH will be revised as follows:

18  
 19 No later than October 1 of 2008, the Company will submit a filing to the  
 20 Commission adjusting the 2009 Supply Charges to reflect changes in the  
 21 market price of electricity. The 2009 Supply Charges will be multiplied by  
 22 the Annual Market Price Adjustment described in Rider 20 to establish rates  
 23 that will become effective for usage on or after January 1, 2009. No later than  
 24 October 1 of 2009, the Company will submit a filing to the Commission  
 25 adjusting the 2010 Supply Charges to reflect changes in the market price of  
 26 electricity. The revised rates will become effective for usage on or after  
 27 January 1, 2010. The 2010 Supply Charges will be multiplied by the Annual  
 28 Market Price Adjustment described in Rider 20 to establish rates that will  
 29 become effective for usage on or after January 1, 2010.

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**Q. Please describe your third change, how you propose to recover the costs for ancillary services and PJM administrative expenses.**

A. The Company is proposing to recover the costs of ancillary services and PJM administrative costs associated with default service for small customer classes through the retail transmission rates and TSC. (For large C&I customers, ancillary services and PJM administrative costs will continue to be recovered in Rider No. 9 and will adjust as PJM charges adjust.) The Commission approved the TSC by order entered December 1, 2006 at Docket R-00061346. This change will enable the Company to recover the expenses it incurs as a provider of transmission service to retail customers taking default service from the Company.

**Q. Do the average supply rates in Table No. 1 and the supply rates in Exhibit WVP-1 include the costs associated with ancillary services and PJM administrative expenses?**

A. No, they do not. However, the transmission rates in Exhibit WVP-1 have been adjusted to include recovery of the charges for ancillary services and PJM administrative costs.

**Q. How are these costs currently recovered for residential, small C&I and lighting customers?**

A. In POLR III, Duquesne fixed the PJM surcharge for residential, small C&I and lighting class customers and included the surcharge in the fixed supply rate. Similarly, ancillary service costs were fixed and bundled together in the fixed supply rate, although no separate charge was identified.

PJM administrative expenses that the Company is currently incurring are being recovered through retail tariff PJM Surcharge Rider No. 1. Rider No. 1 became effective January 1, 2005 when the Company joined PJM and as defined in its POLR III order, is effective until December 31, 2007. As described in the Company's distribution rate case at Docket R-00061346, the Company proposed

1 to retain Rider No. 1 through December 31, 2007, at which point the Company  
2 proposed to roll those PJM expenses into the proposed transmission service  
3 charge so the default service supply rates will not reflect any such PJM costs.  
4 (Pfrommer, Direct, p. 19, l. 10)  
5

6 **Q. Why is it appropriate to recover the costs associated with ancillary services  
7 and PJM administrative expenses through the transmission rates?**

8 A. These are transmission related costs the Company incurs in accordance with the  
9 OATT, and as such they are appropriately recovered through retail transmission  
10 rates, in this case the TSC. This approach will have no effect on the price to  
11 compare ("PTC") and since it is updated annually through the TSC, will ensure  
12 there is no competitive distortion.  
13

14 **Q. How will the Company adjust the transmission rates to recover ancillary  
15 services and PJM administrative costs?**

16 A. The Company proposes to modify the definition of projected total expenses in the  
17 TSC to include these expenses for all small customer classes. Both ancillary  
18 service and PJM administrative costs will be recovered on the basis they are  
19 incurred, primarily MWh, to ensure there is no cost shifting. The revenue  
20 collected will be trued-up with expenses incurred in the subsequent TSC filing.  
21

22 **Q. Have you estimated the average costs for ancillary services?**

23 A. Yes. Based on the 12 months ending December 2006, the ancillary service  
24 expense the Company proposes to recover in the transmission expense will be set  
25 initially at \$2.175/MWh. This rate will recover the estimated ancillary service  
26 expenses for spinning reserves, operating reserves, regulation, synchronous  
27 condensing charges, schedule 1A and black start service. This rate also includes  
28 an adjustment for transmission and distribution line losses and Pennsylvania gross  
29 receipts tax ("GRT").  
30  
31

1 Q. Have you estimated the average costs for PJM administrative expenses?  
2 A. Yes. I used the stated rates in Schedules 9-1 to 9-5 and Schedule 9-FERC in the  
3 PJM OATT to calculate a rate of \$0.408/MWh to recover PJM administrative  
4 expense. Similar to derivation of the ancillary service rate, the PJM  
5 administrative rate has been adjusted for transmission and distribution line losses  
6 and GRT.  
7

8 Q. Will you update the estimated costs for ancillary services prior to January 1,  
9 2008?

10 A. Yes. The Company proposes to update the estimated cost for ancillary services  
11 based on the average costs for the 12 months ending November 30, 2007. This  
12 will provide an updated rate beginning January 1, 2008 using the most recent data  
13 and will reduce the potential effects of adjusting these rates in April 2008, the  
14 date of the then subsequent TSC filing.  
15

16 Q. What changes do you propose to the retail tariff to recover these costs  
17 through the TSC?

18 A. First, the "Electric Charges" section of each rate schedule will be revised to  
19 explain that these costs will be recovered through the TSC which is Appendix A  
20 of the tariff. Second, the Company will revise the TSC to incorporate language  
21 explaining that ancillary service expenses and PJM administrative expenses are  
22 part of the TSC for each rate schedule. Third, since the PJM administrative  
23 expenses will be recovered through the TSC, Rider No. 1 has been eliminated.  
24 Rider No. 9 has been revised to provide more discussion on the PJM surcharge.  
25 All of these changes are shown in Exhibit NJDK-3 attached to Ms. Krajovic's  
26 testimony.  
27  
28  
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31



1 Q. How do the proposed supply rates compare to the generation rate cap  
2 (including the competitive transition charge) approved in Duquesne's  
3 restructuring case?

4 A. Exhibit WVP-5 provides a comparison of class average POLR I generation rate  
5 caps to the proposed supply rates. For the vast majority of residential and small  
6 C&I customers, the proposed supply rates remain below Duquesne's restructuring  
7 generation rate caps. These modest changes in residential and small C&I customer  
8 rates are particularly remarkable given the significant increase in market prices in  
9 the past ten years and the relatively high levels of customer shopping in  
10 Duquesne's service area. Mr. O'Brien and Mr. Fisher provide more description  
11 regarding how the Company was able to mitigate stranded costs, reduce rates, and  
12 at the same time, promote retail competition.  
13  
14

#### 15 V. LARGE CUSTOMER SUPPLY RATES

16  
17 Q. What changes are you proposing to the supply rates of the large C&I rate  
18 classes?

19 A. Rate schedules GL, GLH, L and HVPS define the large C&I rate classes and are  
20 applicable to approximately 871 customers with monthly-metered demands  
21 greater than 300 kW. Currently these customers have the option to purchase  
22 default service supply from the Company under fixed price service ("FPS") retail  
23 tariff Rider No. 8 or hourly price service ("HPS") Rider No. 9. FPS Rider No. 8  
24 is scheduled to expire May 31, 2007. As described by Mr. O'Brien, Duquesne  
25 will only offer HPS service to large C&I customers effective June 1, 2007.  
26 Duquesne will no longer offer large C&I customers a fixed price option (Rider  
27 No. 8), but rather will rely on EGS's to provide this service.  
28

29 Q. Will this change affect many customers?

30 A. No. As of December 31, 2006, there were only six of an eligible 871 customers  
31 on FPS service, less than 1%. Since FPS Rider No. 8 will terminate May 31,

1 2007, no customers will be on this rate when the Company implements its default  
2 service plan January 1, 2008.

3  
4 **Q. How will eliminating the fixed price option affect the retail tariff?**

5 A. Retail tariff Rider No. 8 will be eliminated. Rule 45.2 regarding switching rules  
6 will be revised to eliminate its applicability to large C&I rate schedules since  
7 Rider No. 8 is eliminated. The Generation Rate Adjustment switching rule  
8 ("GRA") described in retail tariff Rider No. 23 is applicable only to customers  
9 electing FPS Rider No. 8 and will also be eliminated. Upon elimination of Rider  
10 No. 23, Duquesne will have no switching restrictions in the retail tariff other than  
11 the protocols defined and required by the Commission.

12  
13 **Q. Are you proposing changes to HPS Rider No. 9?**

14 A. Duquesne is not proposing any changes to the formula described in Rider No. 9  
15 and will continue to offer hourly price default service to large C&I customers.  
16 Duquesne is proposing to recover the cost of ancillary services and PJM  
17 administrative costs in the same manner as it does today as defined in the Rider  
18 No. 9 formula rate. Duquesne is, however, proposing to revise the fixed retail  
19 adders defined in the rider.

20  
21 **Q. Please described the current fixed retail adders in Rider No. 9?**

22 A. Table No. 3 summarizes the adders approved in the POLR III proceeding. The  
23 adder for each rate class consists of a risk component and an administrative  
24 charge component. The administrative charge component for each rate class is  
25 \$1.35/MWh. The administrative charge adder was based on the incurred costs  
26 and annual costs for POLR III and a forecast level of sales for large C&I  
27 customers expected to remain on POLR III supply rates when they became  
28 effective January 1, 2005.

29  
30  
31

1 **Table No. 3 Current Rider No. 9 Fixed Retail Adders**

Rate	Adder \$/MWh
GL	\$4.89
GLH	\$3.52
L	\$3.41
HVPS	\$1.70

2

3 **Q. What is the revised adder you are proposing for hourly price service Rider**  
4 **No. 9?**

5 A. The Company has eliminated the risk component of the adder and seeks only to  
6 recover its administrative costs of providing the hourly price default service.  
7 Therefore, I revised the adders to reflect current annual costs and to reflect actual  
8 POLR sales on the hourly price service. The annual cost to provide HPS service  
9 is approximately \$800,000. The Company is proposing an administrative cost  
10 adder of \$3.97 per MWh based on estimated annual POLR sales of 201,736  
11 MWh. This adder will apply to POLR sales for any customer that receives hourly  
12 price service.

13

14 **Q. Does this conclude your direct testimony?**

15 A. Yes, it does.

DUQUESNE LIGHT COMPANY  
SUPPLY RATES BY RATE SCHEDULE

Rate Class		Billing Unit	2007	2008	2009	2010	
RS	All kWh	¢/kWh	6.3031	7.1560	7.1560	7.1560	
RH	May thru October	¢/kWh	7.6604	7.1560	7.1560	7.1560	
	First 500 kWh - November thru April	¢/kWh	7.6604	7.1560	7.1560	7.1560	
	Additional kWh - November thru April	¢/kWh	2.6133	4.1275	5.6418	7.1560	
RA	May thru October	¢/kWh	7.7806	7.1560	7.1560	7.1560	
	First 500 kWh - November thru April	¢/kWh	7.7806	7.1560	7.1560	7.1560	
	Additional kWh - November thru April	¢/kWh	2.7020	4.1867	5.6713	7.1560	
GS	First 1300 kWh	¢/kWh	7.9914	7.0830	7.0830	7.0830	
	Additional kWh	¢/kWh	3.4824	7.0830	7.0830	7.0830	
GM	Demand first 5 kW	\$/kW/mo.	\$0.00	\$0.00	\$0.00	\$0.00	
	Demand additional kW	\$/kW/mo.	\$9.28	\$6.19	\$3.09	\$0.00	
	First 1300 kWh	¢/kWh	7.9914	7.0830	7.0830	7.0830	
	Additional kWh	¢/kWh	3.4824	5.2849	6.1840	7.0830	
GMH	Demand first 5 kW	\$/kW/mo.	\$0.00	\$0.00	\$0.00	\$0.00	
	Demand additional kW	\$/kW/mo.	\$9.66	\$6.19	\$3.09	\$0.00	
	First 1300 kWh - June thru September	¢/kWh	8.2699	7.0830	7.0830	7.0830	
	Additional kWh - June thru September	¢/kWh	3.0442	5.2849	6.1840	7.0830	
	First block kWh - October thru May	¢/kWh	7.2685	7.0830	7.0830	7.0830	
	Additional kWh - October thru May	¢/kWh	3.0442	4.3905	5.7367	7.0830	
AL	Demand all kW	\$/kW/mo.	\$5.06	\$0.00	\$0.00	\$0.00	
	First 300 kWh	¢/kWh	7.1574	5.9230	5.9230	5.9230	
	Additional kWh	¢/kWh	1.7392	5.9230	5.9230	5.9230	
SE	All kWh	¢/kWh	3.8918	5.9230	5.9230	5.9230	
SM	Mercury Vapor (\$/fixture/month)	kWh/mo.					
	100 watts	44	\$1.60	\$2.61	\$2.61	\$2.61	
	175 watts	74	\$2.07	\$4.38	\$4.38	\$4.38	
	250 watts	102	\$2.58	\$6.04	\$6.04	\$6.04	
	400 watts	161	\$3.49	\$9.54	\$9.54	\$9.54	
	1000 watts	386	\$7.66	\$22.86	\$22.86	\$22.86	
	Sodium Vapor (\$/fixture/month)						
	70 watts	29	\$1.62	\$1.72	\$1.72	\$1.72	
	100 watts	50	\$2.07	\$2.96	\$2.96	\$2.96	
	150 watts	71	\$2.46	\$4.21	\$4.21	\$4.21	
	250 watts	110	\$3.59	\$6.52	\$6.52	\$6.52	
	400 watts	170	\$4.68	\$10.07	\$10.07	\$10.07	
	1000 watts	387	\$9.77	\$22.92	\$22.92	\$22.92	
	SH	Sodium Vapor (\$/fixture/month)	kWh/mo.				
		100 watts	50	\$5.72	\$2.96	\$2.96	\$2.96
150 watts		71	\$7.02	\$4.21	\$4.21	\$4.21	
200 watts		95	\$8.35	\$5.63	\$5.63	\$5.63	
400 watts		170	\$13.54	\$10.07	\$10.07	\$10.07	
UMS	First 1,300 kWh	¢/kWh	7.2530	6.7180	6.7180	6.7180	
	(Unmetered) Additional kWh	¢/kWh	1.6954	6.7180	6.7180	6.7180	
PAL	High Pressure Sodium (\$/fixture/month)	kWh/mo.					
	70 watts	29	\$1.62	\$1.72	\$1.72	\$1.72	
	100 watts	50	\$2.07	\$2.96	\$2.96	\$2.96	
	150 watts	71	\$2.45	\$4.21	\$4.21	\$4.21	
	250 watts	110	\$3.58	\$6.52	\$6.52	\$6.52	
	400 watts	170	\$4.67	\$10.07	\$10.07	\$10.07	
	Flood Lighting (\$/fixture/month)						
	100 watts	46	\$1.86	\$2.72	\$2.72	\$2.72	
	150 watts	67	\$2.17	\$3.97	\$3.97	\$3.97	
	250 watts	100	\$2.61	\$5.92	\$5.92	\$5.92	
	400 watts	155	\$3.34	\$9.18	\$9.18	\$9.18	
	Unmetered (\$/fixture/month)						
	70 watts	29	\$1.27	\$1.72	\$1.72	\$1.72	
	100 watts	46	\$2.02	\$2.72	\$2.72	\$2.72	
	150 watts	67	\$2.93	\$3.97	\$3.97	\$3.97	
	250 watts	100	\$4.37	\$5.92	\$5.92	\$5.92	
	400 watts	155	\$6.78	\$9.18	\$9.18	\$9.18	

DUQUESNE LIGHT COMPANY  
RATE CLASS AVERAGE RATES (CENTS/KWH)

Proposed Class Average Rates 2008 (1)

Rate Class	Distribution	Transmission	Supply	Total Average Charge
RS	5.40	0.60	7.16	13.16
RH	4.11	0.42	5.87	10.40
RA	3.14	0.59	6.32	10.04
GS/GM	2.67	0.52	7.08	10.28
GMH	2.40	0.45	6.17	9.02
AL	0.94	0.26	5.92	7.12
SE	5.50	0.26	5.92	11.68
SM	30.22	0.26	5.92	36.40
SH	13.42	0.26	5.92	19.60
UMS	5.09	0.41	6.72	12.22
PAL	12.33	0.26	5.92	18.51
Weighted Avg.	4.23	0.55	6.99	11.77
Residential	5.25	0.58	7.02	12.85
Small C&I	2.64	0.52	6.99	10.14
Lighting/UMS	14.74	0.30	6.13	21.17

Proposed Class Average Rates 2009 (1)

Rate Class	Distribution	Transmission	Supply	Total Average Charge
RS	5.40	0.60	7.16	13.16
RH	4.11	0.42	6.51	11.04
RA	3.14	0.59	6.74	10.46
GS/GM	2.67	0.52	7.08	10.28
GMH	2.40	0.45	6.62	9.48
AL	0.94	0.26	5.92	7.12
SE	5.50	0.26	5.92	11.68
SM	30.22	0.26	5.92	36.40
SH	13.42	0.26	5.92	19.60
UMS	5.09	0.41	6.72	12.22
PAL	12.33	0.26	5.92	18.51
Weighted Avg.	4.23	0.55	7.05	11.83
Residential	5.25	0.58	7.09	12.92
Small C&I	2.64	0.52	7.03	10.19
Lighting/UMS	14.74	0.30	6.13	21.17

Proposed Class Average Rates 2010 (1)

Rate Class	Distribution	Transmission	Supply	Total Average Charge
RS	5.40	0.60	7.16	13.16
RH	4.11	0.42	7.16	11.68
RA	3.14	0.59	7.16	10.88
GS/GM	2.67	0.52	7.08	10.28
GMH	2.40	0.45	7.08	9.93
AL	0.94	0.26	5.92	7.12
SE	5.50	0.26	5.92	11.68
SM	30.22	0.26	5.92	36.40
SH	13.42	0.26	5.92	19.60
UMS	5.09	0.41	6.72	12.22
PAL	12.33	0.26	5.92	18.51
Weighted Avg.	4.23	0.55	7.11	11.89
Residential	5.25	0.58	7.16	12.99
Small C&I	2.64	0.52	7.08	10.24
Lighting/UMS	14.74	0.30	6.13	21.17

1/ Assumes no increase to distribution rates 2008-2010. Transmission rates do not reflect changes resulting from annual FERC formula filings.

DUQUESNE LIGHT COMPANY  
CLASS AVERAGE SUPPLY RATES  
CURRENT RATES VERSUS PROPOSED DEFAULT SERVICE RATES (CENTS/KWH)

Rate Class	Current	Proposed Supply Rates					
	POLR III Supply Rates (1)	2008 (2)	Change Over POLR III	2009 (2)	Change Over POLR III	2010 (2)	Change Over POLR III
RS	6.30	7.41	17.6%	7.41	17.6%	7.41	17.6%
RH	5.53	6.13	11.0%	6.77	22.6%	7.41	34.2%
RA	6.35	6.58	3.5%	6.99	10.1%	7.41	16.7%
GS/GM	6.46	7.34	13.6%	7.34	13.6%	7.34	13.6%
GMH	5.48	6.42	17.2%	6.88	25.5%	7.34	33.9%
AL	6.43	6.18	-3.9%	6.18	-3.9%	6.18	-3.9%
SE	3.89	6.18	58.8%	6.18	58.8%	6.18	58.8%
SM	4.38	6.18	41.1%	6.18	41.1%	6.18	41.1%
SH	8.72	6.18	-29.1%	6.18	-29.1%	6.18	-29.1%
UMS	7.03	6.98	-0.7%	6.98	-0.7%	6.98	-0.7%
PAL	2.87	6.18	115.5%	6.18	115.5%	6.18	115.5%
Weighted Avg.	6.27	7.25	15.7%	7.31	16.6%	7.37	17.6%
Residential	6.23	7.28	16.9%	7.35	18.0%	7.41	19.1%
Small C&I	6.36	7.24	13.9%	7.29	14.7%	7.34	15.4%
Lighting/UMS	4.93	6.39	29.5%	6.39	29.5%	6.39	29.5%

1/ Current supply rates include ancillary services and the PJM surcharge of .0708 cents per kWh per retail tariff Rider No. 1.

2/ For equivalent comparison, proposed supply rates include ancillary service costs (.2175 cents per kWh) and PJM administrative costs (.0408 cents per kWh). However, these costs will be recovered through the Company's transmission rates. Proposed supply rates also include the costs and risks with PJM RPM capacity requirements and new renewable energy supply requirements.

DUQUESNE LIGHT COMPANY  
TOTAL BILL COMPARISON AT CLASS AVERAGE RATES  
CURRENT RATES VERSUS PROPOSED DEFAULT SERVICE RATES (CENTS/KWH)

Rate Class	Current Rates (POLR III)				Proposed Total Average Charges (1)					
	D	T	S	Total	2008	Change Over POLR III	2009	Change Over POLR III	2010	Change Over POLR III
RS	5.40	0.34	6.30	12.05	13.16	9.2%	13.16	9.2%	13.16	9.2%
RH	4.11	0.16	5.53	9.79	10.40	6.2%	11.04	12.7%	11.68	19.3%
RA	3.14	0.33	6.35	9.82	10.04	2.3%	10.46	6.6%	10.88	10.8%
GS/GM	2.67	0.27	6.46	9.40	10.28	9.3%	10.28	9.3%	10.28	9.3%
GMH	2.40	0.19	5.48	8.07	9.02	11.7%	9.48	17.3%	9.93	23.0%
AL	0.94	0.00	6.43	7.37	7.12	-3.4%	7.12	-3.4%	7.12	-3.4%
SE	5.50	0.00	3.89	9.39	11.68	24.4%	11.68	24.4%	11.68	24.4%
SM	30.22	0.00	4.38	34.60	36.40	5.2%	36.40	5.2%	36.40	5.2%
SH	13.42	0.00	8.72	22.14	19.60	-11.5%	19.60	-11.5%	19.60	-11.5%
UMS	5.09	0.15	7.03	12.27	12.22	-0.4%	12.22	-0.4%	12.22	-0.4%
PAL	12.33	0.00	2.87	15.20	18.51	21.8%	18.51	21.8%	18.51	21.8%
Weighted Avg.	4.23	0.29	6.27	10.79	11.77	9.1%	11.83	9.7%	11.89	10.2%
Residential	5.25	0.32	6.23	11.80	12.85	8.9%	12.92	9.5%	12.99	10.1%
Small C&I	2.64	0.26	6.36	9.26	10.14	9.6%	10.19	10.1%	10.24	10.6%
Lighting/UMS	14.74	0.04	4.93	19.72	21.17	7.4%	21.17	7.4%	21.17	7.4%

1/ Assumes no increase to distribution rates 2008-2010. Proposed Total Class Average rates do not reflect changes in transmission rates resulting from annual FERC formula filings.

**DUQUESNE LIGHT COMPANY**  
**CLASS AVERAGE SUPPLY RATES**  
**POLR I RATES VERSUS PROPOSED DEFAULT SERVICE RATES (CENTS/KWH)**

Rate Class	POLR I Supply Rate (1)	Total Supply Cost					
		2008 (2)	Change Over POLR I	2009 (2)	Change Over POLR I	2010 (2)	Change Over POLR I
RS	8.16	7.41	-9.1%	7.41	-9.1%	7.41	-9.1%
RH	7.11	6.13	-13.8%	6.77	-4.7%	7.41	4.3%
RA	7.88	6.58	-16.6%	6.99	-11.3%	7.41	-6.0%
GS/GM	7.60	7.34	-3.4%	7.34	-3.4%	7.34	-3.4%
GMH	6.52	6.42	-1.4%	6.88	5.6%	7.34	12.6%
AL	6.38	6.18	-3.1%	6.18	-3.1%	6.18	-3.1%
SE	5.44	6.18	13.6%	6.18	13.6%	6.18	13.6%
SM	10.59	6.18	-41.6%	6.18	-41.6%	6.18	-41.6%
SH	10.90	6.18	-43.3%	6.18	-43.3%	6.18	-43.3%
UMS	9.00	6.98	-22.5%	6.98	-22.5%	6.98	-22.5%
PAL	6.88	6.18	-10.2%	6.18	-10.2%	6.18	-10.2%
Weighted Avg.	7.81	7.25	-7.1%	7.31	-6.4%	7.37	-5.6%
Residential	8.05	7.28	-9.6%	7.35	-8.7%	7.41	-7.9%
Small C&I	7.49	7.24	-3.2%	7.29	-2.6%	7.34	-1.9%
Lighting/UMS	8.36	6.39	-23.6%	6.39	-23.6%	6.39	-23.6%

1/ Average supply rates include class average competitive transition charges.  
2/ Includes ancillary services and PJM administrative costs.

Duquesne Response to Whemco  
Set I-22

**APPENDIX 7**

**Whemco-Steel Castings, Inc. v. Duquesne Light Company**  
**Docket No. C-2014-2459527**

Whemco-Steel Castings, Inc. – Set I  
To Duquesne Light Company

Witness: William Pfrommer

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**Whemco I-22**

Identify by page and line number in the testimony of William V. Pfrommer wherein "[t]he proposal to eliminate, in its entirety, Rider No. 5-Time of Day Discounts was plainly stated..." as alleged in paragraph 62 of Duquesne's Answer and New Matter.

**Response:**

Page 10, lines 15-27 explain the elimination of Rider No. 5. Page 10, lines 24-25 state: "The Company proposes to completely eliminate this rider effective January 1, 2010." It is noted that this reference should have state January 1, 2011. Company witness Nancy Krajovic sponsored the tariff changes in the proceeding at Docket No. P-00072247. The proposed changes to Rider No. 5 stating that it would terminate December 31, 2010, which were part of her Exhibit NJDK-3 in that proceeding, is provided in Exhibit 3 of Duquesne's Answer and New Matter.

Excerpts from Krajovic  
St. No. 5 and Exhibit NJDK-3  
in Docket No. P-00072247

APPENDIX 8

DUQUESNE STATEMENT NO. 5

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DOCUMENT  
FOLDER

DIRECT TESTIMONY OF  
NANCY J. KRAJOVIC

**DOCKETED**  
MAY 08 2007

Dated: January 25, 2007

1 contain an adjustment feature that can be applied to the discount rate for an  
2 individual EGS if the 60-days or older uncollectible amount for that specific EGS  
3 exceeds 5% of its total annual consolidated billings. The rate of 5% is more than  
4 twice Duquesne's 60-day uncollectible rate, but will provide the Company with  
5 some protection from a scenario in which an EGS might engage in unusual  
6 behavior under the assurances of full payment from Duquesne.

7  
8 Finally, this agreement allows all parties, including the Company, to avoid  
9 contentious litigation associated with the unbundling of POLR costs from  
10 distribution rates since the Agreement provides that there will be no further  
11 unbundling of costs during the term of the Agreement.

12  
13 **Q. Given the balance of interests that you describe, what do you recommend?**

14 **A.** I recommend that the Commission approve the POR agreement without  
15 modification. A considerable effort prior to this filing was made by Duquesne  
16 and other parties to develop this program. The POR program will promote retail  
17 competition, and at the same time continue to protect customers and avoid  
18 contentious litigation associated with the unbundling of POLR costs from  
19 distribution rates.

---

20  
21 **RETAIL TARIFF MODIFICATION**

22  
23 **Q. What tariff modifications are included in Exhibit NJDK-3.**

24 **A.** Pages 2 – 2G itemize the modifications contained in the draft supplement to the  
25 Company's retail Tariff submitted as Exhibit NJDK-3. Generally, the draft  
26 supplement contains the new supply rates and rate design changes proposed by  
27 the Company and sponsored by Mr. Pfrommer in his testimony, as well as  
28 modifications to support the POR.

Exhibit NJDK-3

**Duquesne Light Company**

**Proposed Changes**

**to Duquesne Light Company's**

**Tariff Electric – PA. P.U.C. No. 24**

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January 23, 2007

STANDARD CONTRACT RIDERS - (Continued)

RIDER NO. 5 - TIME OF DAY DISCOUNTS

(Applicable to Rates GS/GM, GL and L and to Rates GMH and GLH during the months of June, July, August and September only)

The availability and application of Rider No. 5 - Time of Day Discounts will terminate December 31, 2010. (C)

Where a customer has a separately measured demand and is supplied by any standard service voltage and where such customer so operates that the maximum demand created during any billing period occurs during off-peak hours, the bills will be calculated using the Billing Demand defined below on the applicable rate and any other applicable riders.

CONTRACT DEMANDS

The Contract On-Peak Demand is the maximum electrical capacity in kilowatts which the Company shall be required by the contract to make available during the on-peak hours to the customer.

The Contract Off-Peak Demand is the maximum electrical capacity in kilowatts which the Company shall be required by the contract to make available during the off-peak hours to the customer. The customer's minimum Billing Demand shall be no lower than one-third (33 1/3%) of the customer's Contract Off-Peak Demand.

The customer shall not establish a demand greater than 105 percent of the individual demands specified in the customer's contract unless written approval shall first have been obtained from the Company. If the customer establishes a repeated pattern of exceeding the Contract Demand, the Contract Demand may be raised to the highest demand established for the remaining term of the contract.

DEMANDS AND ENERGIES

The On-Peak Demand is the demand during on-peak hours. The Off-Peak Demand is the demand during off-peak hours.

Demands and energies will be determined on an individual demand basis and corresponding quantities will be combined to obtain demands and energies for billing purposes.

Rates GL, GLH and L

For customers on Rates GL, GLH and L who purchase their electric supply requirements from the Company, the discounts available under the provisions of this rider will apply only to the demand charges billed for distribution. (C)  
The demand charges billed for supply provided under Rider No. 9 will not be impacted by this rider. (C)  
For customers on Rates GL, GLH and L who purchase their electric supply requirements from an EGS, the discounts (C)  
available under the provisions of this rider will apply only to the demand charges billed for distribution service.

(C) - Indicates Change

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WHEMCO-STEEL CASTINGS, INC.

v.

DUQUESNE LIGHT COMPANY

:  
:  
:  
:  
:

**DOCKET NO. C-2014-2459527**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the Motion of Whemco-Steel Castings, Inc. for Summary Judgment upon the parties and in the manner listed below:

**Via Email and First-Class Mail**

Administrative Law Judge Jeffrey A. Watson  
Pennsylvania Public Utility Commission  
Piatt Place, Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222  
[jeffwatson@pa.gov](mailto:jeffwatson@pa.gov)

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Dated this 1<sup>st</sup> day of July, 2015.



Alan M. Seltzer, Esq.