

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Docket No. R-00061346**

**Duquesne Light Company**

**Statement No. 15-R**

**Rebuttal Testimony of Neil S. Fisher**

1 **I. Introduction**

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

3 A. My name is Neil S. Fisher. My business address is 55 Old Bedford Road, Lincoln,  
4 Massachusetts, 01773.

5  
6 **Q. What is your current position?**

7 A. I am a Principal with The NorthBridge Group (NorthBridge), an economic and strategic  
8 consulting firm for the electric and natural gas industries. NorthBridge has advised  
9 Duquesne Light Company (Duquesne or the Company) on restructuring matters for many  
10 years. I have advised Duquesne on generation rate design and rate matters, including  
11 issues relating to its provider-of-last-resort service (POLR or default service) since the  
12 start of retail access, including Duquesne's pilot, POLR I, POLR II, and POLR III  
13 programs.

14  
15 **Q. Please describe your educational and professional experience.**

16 A. I graduated from Swarthmore College with a Bachelor of Arts degree in Economics with  
17 Honors. I graduated from Yale University with a Masters in Business Administration. I  
18 joined NorthBridge in 1993. Before that, I worked as a consultant at Putnam, Hayes &  
19 Bartlett, where I concentrated on electric and natural gas restructuring. As a consultant, I  
20 have assisted regulated electric utility clients in several states design default service and  
21 prepare for retail access. I have also developed strategies for unregulated retail electric  
22 providers interested in participating in retail markets.

23

24

1 Q. **Did you sponsor direct testimony in this proceeding?**

2 A. No.

3

4 Q. **Have you testified previously before this Commission?**

5 A. Yes, I testified in Docket P-00032071, Duquesne's Petition for Approval of Plan for  
6 Post-Transition Period POLR Service (POLR III proceeding) and in Docket P-00021969,  
7 Duquesne's Petition Requesting Modification to POLR II Plan to Permit Participation in  
8 PJM. I also participated in Duquesne's POLR II collaborative led by several  
9 Pennsylvania Commissioners.

10

11 Q. **What is the purpose of your rebuttal testimony?**

12 A. I respond to:

- 13 • Constellation NewEnergy, Inc.'s (CNE's) claims that Duquesne must modify its retail  
14 access program in order to develop a more competitive retail market in Duquesne's  
15 service territory.
- 16 • Direct Energy Services, LLC's (Direct Energy's) claims that Duquesne must  
17 unbundle and move certain costs from distribution rates to generation rates in order to  
18 prevent the collapse of retail competition in Duquesne's service area.
- 19 • Strategic Energy, LLC's (Strategic's) allegations that Duquesne is improperly  
20 subsidizing its unregulated affiliate, Duquesne Light Energy (DLE).
- 21 • Citizens for Pennsylvania's Future (Penn Future's) and other party's interests in  
22 funding a variety of new public policy related programs.

23

1 **Q. Please summarize your conclusions.**

2 **A.** My main conclusions are summarized below:

3 1. Duquesne's management, with the assistance of others, has developed one of the  
4 best retail access programs in the country, and

5 a) The recommendations proposed by CNE, which are largely process  
6 complaints related to Electric Distribution Company (EDC) and Electric  
7 Generation Supplier (EGS) communications, should be addressed in state-  
8 wide default service regulations or addressed in dispute resolution procedures  
9 that already exist,

10 b) Claims that Duquesne must move certain costs from distribution rates to  
11 generation rates in order to prevent the collapse of retail competition in  
12 Duquesne's service area are without merit.

13 2. Arguments that Duquesne should move certain customer service costs from  
14 distribution rates to generation rates should be rejected in this proceeding.

15 3. Allegations that Duquesne is subsidizing DLE are unsupported and not credible.

16 4. Duquesne is willing to establish a new energy management and price mitigation  
17 mechanism to support the future funding of certain public policy objectives,  
18 including the promotion of advanced metering and communications, voluntary  
19 time-of-use programs, energy conservation programs, economic development, and  
20 customer education.

21 Each of these conclusions is described in more detail below.

22

1 **II. Duquesne Has Developed One of the Best Retail Access Programs in the Country**

2 **Q. Please summarize the intervenors' claims regarding Duquesne's retail access**  
3 **program.**

4 A. CNE concludes that "Duquesne Light has done a poor job of advancing retail choice,"<sup>1</sup>  
5 asserting that the Company "has not lived up to the spirit of the Choice Act and has at  
6 times exhibited behavior that is harmful to competitive retail markets."<sup>2</sup> Further, CNE  
7 implies that Duquesne's management is not committed to advancing a competitive  
8 market complaining that EGSs do not have direct access to management with the  
9 authority to make decisions on how customer choice can be improved.<sup>3</sup>

10 Direct Energy accuses Duquesne of maintaining an "inherently anti-competitive"  
11 cost recovery proposal with generation rates that are and always will be "below market."<sup>4</sup>

12 Direct Energy asserts that if Duquesne is permitted to continue to recover what are  
13 alleged to be generation costs in its distribution rates then this "will drive competition for  
14 electricity supply out of the Duquesne Light service territory, with the end result being  
15 the creation of a de-facto monopoly incumbent service provider."<sup>5</sup> Direct Energy further  
16 claims that Duquesne's anti-competitive, below market rates are tied to Duquesne's  
17 interest in retaining and increasing default service load.<sup>6</sup>

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<sup>1</sup> CNE Statement #1, at 23, line 18.

<sup>2</sup> Ibid., at 9, lines 8-9.

<sup>3</sup> Ibid., at 10, lines 6-8.

<sup>4</sup> Direct Energy Statement #1, at 6, lines 9-10 and at 7, line 4.

<sup>5</sup> Ibid., at 2, lines 11-15.

<sup>6</sup> Ibid., at 7, line 9 to at 8, line 3.

1 Q. What is your response?

2 A. These accusations of anti-competitive behavior, in general, are completely without merit.  
3 Intervenors put forth minor criticisms and ignore the big picture. Duquesne's  
4 management has been committed to retail access from the start of customer choice in  
5 Pennsylvania. Throughout the restructuring process and post-transition period,  
6 *Duquesne's management has taken significant actions to promote retail competition*  
7 while balancing the interests of its customers and shareholders. For example, Duquesne's  
8 management proposed a market determination of stranded costs through the voluntary  
9 divestiture of its generation assets. Duquesne's management structured an innovative  
10 asset swap to maximize the value of its existing generation asset portfolio. These steps  
11 by Duquesne's management transformed assets that were valued administratively at  
12 approximately \$110 million in Duquesne's restructuring case<sup>7</sup> and ultimately led to the  
13 asset divestiture at market for \$1.7 billion. These voluntary actions taken by Duquesne's  
14 management provided enormous benefits to customers in the form of accelerated  
15 recovery of stranded costs and significant rate reductions. They also provided a firm  
16 foundation for the advancement of retail competition.

17 Duquesne's management also initiated at the start of retail access a "jump start"  
18 supply program for EGSs serving retail customers in its service area. This program  
19 provided wholesale supply to EGSs at prices below Duquesne's default service rates in  
20 order to encourage supplier entry. Duquesne's management also offered to extend this  
21 program to EGSs during POLR II. Duquesne's management periodically proposed  
22 increases in generation rates over time (both in POLR II and in POLR III) to better track

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<sup>7</sup> *Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket R-00974104, May 21, 1998, at 130.

1 changes in market prices. In another effort to foster retail competition at the start of  
2 POLR II, Duquesne's management agreed to levelize generation rates at the request of  
3 EGSs. During POLR II discussions, Duquesne's management also adopted several other  
4 suggestions requested by EGSs, which included modifying its procedure for determining  
5 responsibility for losses and calculating load responsibility, expanding EGS access to  
6 customer information, and developing an hourly pricing program for large C&I  
7 customers once a visible and liquid spot market price was available. Later in POLR III,  
8 Duquesne management voluntarily developed and proposed an hourly pricing program  
9 for all customers with peak demands greater than 300 kW.

10 However, Duquesne, will not promote retail competition as a goal in and of itself,  
11 where this is a detriment to customers. Rather Duquesne seeks to balance the interests of  
12 all parties as retail markets continue to evolve. Throughout the transition to competition,  
13 Duquesne continued to advocate for and offer retail customers stable rates that were for  
14 most customers significantly below the levels established prior to those in effect at the  
15 *time of restructuring*.

16 While some parties now try to argue that Duquesne has erected barriers to retail  
17 competition by engaging in anti-competitive practices and/or pricing generation rates  
18 "below market," the fact is, relative to most retail access jurisdictions, Duquesne has one  
19 of the most successful retail access programs in the United States, and Duquesne's  
20 program represents the vast majority of shopping load within the entire state of  
21 Pennsylvania. As shown in Exhibit NSF-1, Duquesne has achieved high customer  
22 shopping rates across customer classes. Duquesne has the 9<sup>th</sup> highest percentage of

1 residential load switched in the entire United States.<sup>8</sup> Duquesne also has one of the  
2 highest percentages of large customer load switched in the country.

3  
4 **Q. If Duquesne's management did not take many of the actions that you describe**  
5 **above, what impact would that have had on retail competition in its service area?**

6 A. I would expect that Duquesne's service area would look much like that of other utilities  
7 in Pennsylvania with relatively little customer shopping. In my view, Duquesne has  
8 succeeded in balancing the interests of customers, EGSs, and shareholders in a manner  
9 that is quite remarkable in the industry. Most customers have experienced significant rate  
10 reductions and stable rates, while customer shopping levels are among the highest in the  
11 country.

12  
13 **Q. Do other parties recognize the success of Duquesne's retail access program?**

14 A. Yes. The Office of Consumer Advocate (OCA) reports that, "At the end of the stranded  
15 cost recovery for Duquesne Light Company in 2001, Duquesne was able to reduce  
16 residential generation rates by more than 30% when the stranded cost recovery  
17 mechanism was eliminated," and while residential generation rates have increased  
18 somewhat as Duquesne has procured generation supply in the wholesale markets,  
19 "Duquesne residential customers are still seeing generation rates in 2005 that are 22%

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<sup>8</sup> Of the eight service areas with higher shopping levels: a) five are located in Texas where customers faced significant rate increases with escalating gas prices and where EGSs can easily offer 15 to 20% savings off the entire bill because the headroom is very high; b) one achieved higher shopping levels only by assigning customers to a supplier in an opt-out aggregation program; c) one relied on the EDC call center referral program to move customers to an EGS unregulated price in exchange for a modest two-month discount; and d) one has a variable hourly-based price default service with a non-bypassable charge that virtually offsets the changes in market prices.

1 below pre-restructuring rates.”<sup>9</sup> The OCA also reports that the vast majority of customer  
2 load – 94% of residential load, 80% of commercial load and 99% of industrial load – that  
3 is currently shopping in Pennsylvania is located in Duquesne’s service area.<sup>10</sup> Penn  
4 Future cites substantially lower residential electric rates and characterizes Duquesne’s  
5 results as “extraordinary,” stating that “residential customers have benefited enormously  
6 from restructuring” in Duquesne’s service area.<sup>11</sup> The trade press reports that “only one  
7 bright spot exists in Pennsylvania’s retail energy markets” and “its Duquesne Power &  
8 Light [sic], the first of the state’s utilities to end transition charge collection...”<sup>12</sup> Even  
9 CNE admits that “one can conclude from these statistics that the competitive market has  
10 been somewhat successful” in Duquesne’s service territory.<sup>13</sup>

11  
12 **Q. Is it possible that Duquesne’s retail access program could be improved?**

13 A. Yes, but policymakers should not be swayed by theories and rhetoric about anti-  
14 competitive behavior and poor performance when there is empirical evidence that  
15 demonstrates the success of Duquesne’s retail access program. In terms of customer  
16 shopping, Duquesne clearly has one of the best retail access programs in the country.  
17 Given Duquesne’s success, there certainly is no “dire need” to address suggested  
18 improvements to its retail access program in a distribution rate case. Many of the

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<sup>9</sup> *Comments Of The Pennsylvania Office Of Consumer Advocate On Wholesale And Retail Electricity Competition*, United States Of America Electric Energy Market Competition Interagency Task Force And The Federal Energy Regulatory Commission, Docket No. AD05-17-000, November 18, 2005, at 29-30.

<sup>10</sup> Pennsylvania Electric Shopping Statistics, July 1, 2006.

<sup>11</sup> Penn Future Statement #1, at 2, lines 13-17, and at 4, line 22-23.

<sup>12</sup> Restructuring Today, July 14, 2005, p.3.

<sup>13</sup> CNE Statement #1, at 8, lines 20-21. In addition to high shopping levels, CNE also admits that there are a sufficient number of EGSs currently participating in Duquesne’s service area. See Interrogatory Response CNE Set I, #18.

1 proposals raised by parties here could be raised in forthcoming default service  
2 proceedings. Duquesne will be filing a new default service plan shortly. There will be  
3 ample opportunity to address these issues there or in the Commission's ongoing default  
4 service rulemaking.

5  
6 *a) EGS Complaints Should be Addressed in State-Wide Default Service Regulations or*  
7 *Addressed in Existing Dispute Resolution Procedures*

8  
9 **Q. What does CNE recommend in this proceeding?**

10 A. CNE makes a series of process recommendations related to establishing a dispute  
11 resolution process between the EDC and EGSs, and formalizing various meetings  
12 throughout the year, as well as the desire to create retail market development  
13 benchmarks.<sup>14</sup> CNE also recommends that Duquesne make a number of changes to its  
14 supplier tariff.<sup>15</sup>

15  
16 **Q. How do you respond?**

17 A. The process recommendations proposed by CNE are not appropriately addressed in this  
18 proceeding. EGS complaints about retail competition-related processes should be  
19 addressed in state-wide default service regulations or in existing dispute resolution  
20 procedures. Duquesne, as a Pennsylvania EDC, should not be required to develop new  
21 processes related to retail competition on a stand-alone basis as a part of its distribution

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<sup>14</sup> Ibid., at 5-7.  
<sup>15</sup> Ibid., at 13, lines 17-18.

1 rate case.<sup>16</sup> Nor should it be required to adopt policies agreed to in other jurisdictions as  
2 part of broader restructuring settlements.

3

4 **Q. What about concerns raised about the lack of supplier meetings with senior**  
5 **Duquesne management?**

6 A. While I am not aware of a formal schedule of supplier meetings like that proposed by  
7 CNE, I am generally aware of meetings between senior Duquesne management and  
8 wholesale and retail suppliers during critical stages of default service plan development.  
9 I know that I participated in meetings and/or phone conversations during the development  
10 of Duquesne's POLR II program in which senior Duquesne management discussed its  
11 plans with suppliers prior to making a filing. I also recall that Duquesne modified its  
12 plan based on several recommendations made by suppliers. In POLR III, I am also aware  
13 that Duquesne's management discussed a variety of supply options with potential  
14 suppliers. I also understand that within the past few weeks some suppliers have met with  
15 senior Duquesne management and intend to meet again prior to Duquesne's next default  
16 service filing.

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<sup>16</sup> CNE currently serves retail customers in 16 states and the District of Columbia. In discovery, CNE acknowledges that it is not aware of any of these jurisdictions that require many of the proposals that it seeks to impose on Duquesne. For example, none of the 16 states require the default supplier to: a) meet four or more times per calendar year with all interested EGSs; b) meet two or more times per calendar year with all interested EGSs and C&I customers; or c) establish a dispute resolution process like that being contemplated by CNE. Nor is CNE required to make its market share information public in jurisdictions in which its affiliate is the default supplier. See Interrogatory Responses CNE Set I, #1, #4, #5, #9, and #11.

1 **Q. What about other claims specific to Duquesne?**

2 A. To the extent there are claims of anti-competitive behavior specific to Duquesne, either  
3 the Company's or the Commission's existing dispute resolution processes could be used.  
4 The Commission on January 29, 1998, adopted an order to promulgate a proposed  
5 rulemaking to establish competitive safeguards for interaction between electric  
6 distribution utilities, electric generation suppliers and customers in the competitive  
7 market. During the early stages of restructuring, it is my understanding that there were a  
8 series of meetings of a Competitive Safeguards Working Group, which was comprised of  
9 up to 35 stakeholder members and four Commission representatives. This group  
10 developed principles for adoption as proposed regulations to provide safeguards against  
11 anti-competitive behavior. As CNE is aware, EGSs are able to file complaints at the  
12 Commission. If the current process needs to be modified, then this should be done in a  
13 state-wide forum.

14 In any event, it should be obvious that Duquesne has proven shopping results that  
15 are far superior to those of other Pennsylvania utilities as well as those in most  
16 jurisdictions in the United States. These results have not materialized by accident, but  
17 rather are a product of a dedicated management committed to making retail competition  
18 work in a responsible manner that benefits customers.

1           *b) Claims that Duquesne must move certain costs from distribution rates to generation*  
2           *rates in order to prevent the collapse of retail competition in Duquesne's service area are*  
3           *without merit*

4

5   **Q.   How do you respond to Direct Energy's claim that Duquesne's generation rates will**  
6           **always be below market if certain costs are not moved from distribution rates to**  
7           **generation rates?**<sup>17</sup>

8   A.   Direct Energy's claim that Duquesne consistently establishes generation rates below  
9           market is inconsistent with prior Commission orders. As discussed below, Duquesne's  
10          restructuring order addressed these specific issues and approved its generation rates.  
11          Subsequently, the Commission again approved its generation rates in POLR II for the  
12          post-transition period. Then again, in POLR III, after an extensive review of the  
13          proposed generation rates during the Commission hearings, the Commission ultimately  
14          concluded that Duquesne provided sufficient market evidence to demonstrate that the  
15          proposed generation rates represented prevailing market prices for the first three years.<sup>18</sup>

16

17   **Q.   Do you agree with Direct Energy's claim that if these costs are not moved to**  
18           **generation rates, then retail access in Duquesne's service area is destined to**  
19           **collapse?**

20   A.   No. Duquesne has had these distribution rates in place since the start of retail access –  
21          for more than 7 years – and there is no sign that the end of retail competition in  
22          Duquesne's service area is imminent. To the contrary, overall customer switching in

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<sup>17</sup> Direct Energy Statement #1, at 7, line 4.

<sup>18</sup> *Petition for Reconsideration Order*, Docket P-00032071, October 5, 2004, at 26.

1 Duquesne's service area has remained stable or increased over time, as shown in Exhibit  
2 NSF-2. Direct Energy's bold assertion that Duquesne's generation rates are "always  
3 below market," and if not corrected, will lead to the collapse of retail competition ignores  
4 the numerous factors that affect headroom and ignores the successful history of retail  
5 access in Duquesne's service area.

6  
7 **Q. How do you respond to Direct Energy's claim that Duquesne is perhaps**  
8 **intentionally underpricing its default service due to an interest in retaining or**  
9 **increasing its load?**

10 A. I have several responses. First, Direct Energy's attempt to link Duquesne's actions to a  
11 profit motive to retain customers is particularly disturbing coming from a company that  
12 serves default service customers in Texas with significantly larger profits. Direct Energy  
13 refers to its Texas Price-To-Beat (PTB) default service as the "gold standard," and reports  
14 gross profits in 2005 of over \$300 MM from Texas residential customers. To its  
15 investors, the company claims to have "effectively managed PtB dynamics to maximize  
16 profitability and customer retention."<sup>19</sup> Using Direct Energy's own logic, it has even  
17 stronger incentives to engage in anti-competitive behavior in how it chooses to exercise  
18 its option to adjust the PTB over time.<sup>20</sup>

19 Second, Duquesne Power (DP) assumed considerable commodity risks in POLR  
20 III on behalf of retail customers by offering a fixed price over a three-year period and  
21 having held that price open over a lengthy regulatory review period. EGSs or wholesale  
22 suppliers seldom assume that type of regulatory risk. Given the risks that it faced, it is

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<sup>19</sup> "Centrica in North America," December 6, 2005, at 26, 51-53.

<sup>20</sup> Direct Energy states in an analyst presentation that "small insurgents will not have staying power to mount a protracted period of price discounting" in Texas. *Ibid.*, at 59.

1 appropriate that DP was afforded an opportunity, not a guarantee, to earn a profit on its  
2 default service business. Under different market circumstances, DP could have suffered a  
3 significant loss.

4 Third, as I mentioned earlier, Duquesne has increased its generation rates both in  
5 POLR II and POLR III. This has allowed Duquesne's rates to better track changes in  
6 market prices in order to promote retail competition in its service area, while balancing  
7 the interests of retail customers who seek stable rates at reasonable price levels.

8

9 **III. Arguments that Duquesne Should Move Certain Customer Service Costs from**  
10 **Distribution Rates to Generation Rates Should Be Rejected in this Proceeding**

11 **Q. Please summarize your main points with respect to separating and moving certain**  
12 **costs from distribution rates to generation rates.**

13 A. Enron raised similar issues that were not adopted by the Commission in Duquesne's  
14 restructuring case. Indeed, a major purpose of restructuring was to unbundle costs into  
15 generation, transmission, and distribution functions. Duquesne did that and now EGSs  
16 want to re-visit the same issues. These same issues should not be litigated again on a  
17 stand-alone basis. More recently, the Commission has established a default service  
18 proceeding that attempts to address these issues for all EDCs in Pennsylvania. In that  
19 proceeding, the Commission has issued "proposed" rules and has received numerous  
20 comments opposing the separation of these costs. Current rules do not require EGSs to  
21 perform metering, billing, and other customer service functions, and many EGSs choose  
22 not to do so. Many of these costs cannot be avoided by an EDC if a customer shops,  
23 especially if the EDC is in the position of having to "stand ready" to serve customers that  
24 return from EGS service. Given the statutory obligation to serve, which is imposed on

1 EDCs, but not on EGSs, it is not clear that any significant amount of costs should be  
2 removed from distribution rates, and certainly not of the magnitude suggested by EGSs in  
3 this proceeding. Finally, experiences both within Pennsylvania and from other  
4 jurisdictions suggest that attempting to unbundle these services will be difficult and  
5 contentious with the potential creation of a new form of stranded costs. Each of these  
6 points is explained further below.

7  
8 **Q. Has this cost allocation issue been litigated before with respect to Duquesne?**

9 A. Yes. Many of the same arguments that Direct Energy is now making were originally  
10 made by Enron in Duquesne's and Philadelphia Electric Company's restructuring cases.  
11 During the restructuring process, the Commission found that there was insufficient  
12 evidence to warrant unbundling of customer services:

13 With respect to the arguments made by Enron and MAPSA, we note that the mere fact  
14 that we can unbundle billing services does not mean that we should unbundle those  
15 services. As we noted in the PECO Energy, quoted by the ALJ at page 718 of the  
16 R.D. and reproduced earlier in this Order, "the manner and details of interaction  
17 between customers, suppliers and EDCs are governed by the rulemaking at Docket  
18 No. M-00960890, F0011." As in PECO Energy, we do not have a record before us  
19 which is adequate to support adoption of this proposal. We note that the proponent of  
20 a rule or order has the burden of proof in the matter pursuant to 66 Pa. C.S. §332(a).  
21 The advocates of unbundling all billing services have not met that burden in this  
22 proceeding.<sup>21</sup> With respect to metering, we are declining to require Duquesne to  
23 unbundle metering services at this time.<sup>22</sup> In addition, we will accept the Company's  
24 functionalization and reject the Enron sales expense adjustment, Account 908  
25 adjustment, and uncollectible accounts adjustment. We note that we denied the same  
26 objections of Enron in PECO Energy, Slip Op., p. 59-61, to that utility's proposed  
27 allocations for uncollectibles, customer accounts, customer service, and sales. As in  
28 PECO Energy, we conclude herein that Enron has not documented sufficiently that a  
29 specific portion of the expenses are in fact generation related. The same treatment  
30 should be accorded Duquesne in this proceeding.<sup>23</sup>

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<sup>21</sup> *Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket R-00974104, May 21, 1998, at 266.

<sup>22</sup> Ibid., at 287.

<sup>23</sup> Ibid., at 47.

1 Q. How do you respond to Direct Energy's reliance on language in the default service  
2 proposed rulemaking to support its claim for the need to move costs from  
3 distribution to generation rates?<sup>24</sup>

4 A. Section 54.187(a) of the *proposed* regulations provides that the costs for providing  
5 default service shall be recovered through three charges – the generation supply charge,  
6 the customer charge, and an automatic energy adjustment charge that recovers costs of  
7 compliance with the Alternative Energy Portfolio Standards Act. The proposed rule  
8 states that functions such as "billing, meter reading, collections, uncollectible debt,  
9 customer service . . . may be more appropriately recovered through default service rates  
10 than distribution rates."<sup>25</sup> Therefore, the proposed regulations include the costs of these  
11 functions within the customer charge. However, because the Commission is aware that  
12 EGSs do not currently provide many of these customer care functions, it acknowledged  
13 that shopping customers still would need to receive these services from the default  
14 service provider. The Commission therefore stated that the default service provider "can  
15 recover these costs through a modified customer charge that recovers the costs for those  
16 specific customer care services being provided to shopping customers." The Commission  
17 would expect a "near corresponding drop in distribution rates."<sup>26</sup> No further detail was  
18 provided regarding the ratemaking process necessary to develop the customer charge or  
19 the "modified customer charge." Neither the intent behind, nor the precise scope of, this  
20 proposal is clear. It appears that the "customer charge" is intended to reflect all customer  
21 care costs, while the "modified customer charge" would only recover customer care costs

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<sup>24</sup> Direct Energy Statement #1, at 8-9.

<sup>25</sup> *Proposed Rulemaking Order Regarding Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa. C.S. §2807(e)(2)*, Docket No. L-00040169, December 16, 2004, at 16.

<sup>26</sup> *Ibid.*, at 17 (emphasis added).

1 provided to shopping customers. In effect, the difference between these two customer  
2 charges would represent the dollars that a customer could avoid paying the default  
3 service provider if it shopped and took service from an EGS who provided a specific  
4 customer care service. In other words, the difference between the two customer charges  
5 would represent the “price-to-compare” for customer care services. Given that not all  
6 EGSs perform the same customer care functions (*e.g.*, generation billing) and costs may  
7 vary by rate class, Duquesne assumes under the Commission’s proposed regulations that  
8 the “modified customer charge” and “price-to-compare” would have to be broken out into  
9 separate charges for each customer care function and rate class. In effect, this would  
10 require the unbundling of all these functions. Duquesne does not believe that unbundling  
11 these functions is appropriate at this time.

12 Accordingly, Duquesne along with many other parties in the default service  
13 rulemaking opposed the separation of these costs in a customer charge.<sup>27</sup> In general,  
14 parties argued that the customer charge should be eliminated. Some stated that the  
15 charge was too complicated and contains many costs that are not properly allocated to  
16 default service. Others mentioned that EDCs often cannot avoid certain costs and  
17 expressed concerns about revenue-neutrality. Duquesne’s largest supplier serving  
18 residential customers, Dominion Retail, also opposed the customer charge, stating that  
19 the fixed customer charge concept is problematic to the point that the Commission should  
20 abandon the idea altogether. It proposed the elimination of the customer charge for

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<sup>27</sup> See comments filed in *Rulemaking Regarding EDC’s Obligation to Serve Retail Customers at the Conclusion of the Transition Period*, Docket L-00040169, April 27, 2005, Office of Consumer Advocate at 16-19; Energy Association of Pennsylvania at 7-9, Office of Small Business Advocate at 10-11, Industrial Energy Consumers of Pennsylvania at 18-21, Citizens & Wellsboro at 18, Pennsylvania Power & Light at 9, UGI at 10, Exelon at 5, Allegheny Energy at 8-9, Richards Energy Group at 1-2.

1           simplicity.<sup>28</sup> Duquesne agrees with the many parties who opposed the proposed customer  
2           charge.

3

4   **Q.    Should the Commission attempt to separate customer care costs in this proceeding?**

5   A.    No, for several reasons. First, it is clear that the Commission has already addressed these  
6           issues before in Duquesne's restructuring case and has already established a forum in  
7           which to address these issues again on a state-wide basis across all Pennsylvania EDCs.

8                    Second, current regulations do not require EGSs to perform many of the customer  
9           care functions identified in the proposed regulation (*e.g.*, meter reading and billing).

10           Each of them is being performed by Duquesne and each of them is recovered through  
11           distribution rates. Though that could change, it has not yet changed in Duquesne's  
12           service territory. Further, uncollectible debt and collections for EGSs, to the extent they  
13           exist, are wholly unlike the uncollectible debt and collection costs faced by EDCs. A  
14           shopping customer that fails to pay its EGS bill can simply be returned to default service  
15           by the EGS. Unlike a default service provider, an EGS can choose which customers it  
16           wishes to serve, and avoid taking on a customer with bad credit. Moreover, an EGS can  
17           protect itself by requiring customer deposits and including more flexible cancellation  
18           provisions than Duquesne can under state law. Since the EDC, as the default service  
19           provider must supply the bad credit and poor paying customers, it is questionable whether  
20           EGSs face these costs at all, while default service providers continue to bear them in the  
21           same fashion as before passage of the Competition Act. In fact, over 98% of both

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<sup>28</sup> Dominion Retail, Inc., Docket L-00040169, *Rulemaking Regarding EDC's Obligation to Serve Retail Customers at the Conclusion of the Transition Period*, April 27, 2005, at 8.

1 customers and accounts receivables that are considered delinquent,<sup>29</sup> and virtually all  
2 (99.9%) of the CAP customers, are on default service as of July 14, 2006.

3 Third, even if it was appropriate to unbundle the customer care functions, it is far  
4 from clear that it can be done accurately without lengthy, contentious, and cumbersome  
5 litigation.

6

7 **Q. What is the basis for your third reason?**

8 A. If the Commission requires EGSs to perform customer care functions in the future for  
9 shopping customers, and those customers would therefore be entitled to bypass some  
10 portion of the default service provider's customer charge, the default service provider and  
11 the Commission would need to undertake a proceeding to determine the EDC's net  
12 incremental costs avoided by the EGS's assumption of a particular customer care function  
13 under alternative situations. This process is extremely complex and has taken years in  
14 other jurisdictions where it has been attempted.<sup>30</sup>

15 For example, there are numerous methods that may be used to unbundle costs and  
16 many factors that influence the process. Costs may be measured on the basis of  
17 embedded costs (the total costs incorporated in regulated rates), the competitive market

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<sup>29</sup> Therefore, the delinquent receivables associated with shopping load are less than 2 percent of the total. (Note this also includes distribution service receivables not owed to the EGS).

<sup>30</sup> See, e.g., *In the Matter of Competitive Opportunities Regarding Electric Service*, Case 94-E-0952 *et al.*, 168 P.U.R. 4th 515 (NYPSC 1996); see also Order Establishing Regulatory Policies for Competitive Metering, 181 P.U.R. 4th 324 (NYPSC 1997); Order Providing for Competitive Metering (NYPSC June 16, 1999); Order Denying Petitions for Rehearing and Clarifying June 16 Order (NYPSC Sept. 15, 1999); Order Concerning Competitive Metering (NYPSC Jan. 31, 2001); Order Adopting Practices and Procedures Manual for the Provision of Electric Metering in a Competitive Environment (NYPSC Feb. 26, 2001); see also Report of NYPSC Competitive Metering Staff Team, 2001 WL 1131885 at 2 (May 29, 2001) (noting that the competitive metering collaborative in New York lasted "several years").

1 price of the service (what suppliers will charge), marginal costs (the cost of providing one  
2 additional unit of service), avoided costs (the decrease in an EDC's costs associated with  
3 some defined reduction in service), net avoided costs (the decrease, minus new EDC  
4 costs incurred due to another supplier providing the service), or de-averaged net avoided  
5 costs (differentiation of avoided costs by customer class, density, location, etc.).

6 Moreover, some costs are avoidable and others are not. In addition, within avoidable  
7 costs, some costs are either variable, semi-variable, or fixed depending on the change in  
8 quantity and timeframe considered, and some costs are direct (assignable) and others are  
9 indirect (non-assignable). Most costs, however, are not avoidable by the EDC if a small  
10 number of customers switch to an EGS or if the EDC has to stand ready to provide these  
11 services if customers return. These include sunk costs, plant and capital investment costs,  
12 and infrastructure costs.

13 Unbundling customer care services and attempting to estimate avoided costs has  
14 proven to be contentious, in part, due to the potential for creating a new form of stranded  
15 costs. If certain customer care costs are moved to default service rates, but EDCs do not  
16 avoid these costs, then this could create new stranded costs at the EDC. This could  
17 require a new stranded cost recovery mechanism, much like a competitive transition  
18 charge.

19 A customer billing system is an example of the difficult problems involved with  
20 unbundling customer care functions. Though the incremental cost of providing one  
21 customer's bill is minute – measurable in the ink necessary to print it and the postage  
22 necessary to mail it – the cost of an entire billing system encompasses the software and  
23 hardware necessary to run it, license fees and ongoing maintenance fees to maintain it,  
24 the personnel necessary to staff it, as well as numerous other costs. It is not possible to

1 accurately separate these costs by small subsets of customers. Any attempt to do so  
2 likely will result in stranded costs.

3 Finally, it is critical that EDCs maintain the integrity of the metering, billing and  
4 customer service processes, and it is questionable whether such integrity can be  
5 maintained if these processes are fragmented among various parties.<sup>31</sup> If the Commission  
6 decided to make these services competitive, it would need to develop standards and  
7 protocols related to safety, reliability, and accuracy first in order to protect consumers.

8 In any event, few EGSs have shown an interest in providing metering and billing  
9 on a competitive basis in a manner that would allow the EDC to avoid having to maintain  
10 the necessary infrastructure to provide these services. Therefore, the Commission should  
11 adhere to the approach it adopted in Duquesne's restructuring case and keep these costs in  
12 distribution rates.

13

14 **Q. What about EGS concerns about creating a level playing field?**

15 A. Parties need to recognize that EGS offers and EDC default service offers are not always  
16 identical with the same terms and conditions. For example, an EGS has much more  
17 flexibility over what risks it is willing to assume, with whom, and when. EGSs are not  
18 required to sell to all customers. EGSs can negotiate the length of customer contracts.  
19 EGSs have more flexibility to update their pricing as market conditions change (e.g., the  
20 price of a one-year contract offered today may be very different than the price of a one-

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<sup>31</sup> For example, Duquesne's metering infrastructure includes the cost of the meter, the communication cards for the meters, the technology license fees, the communication costs, the costs of meter readers for contingency or drive by, the cost of the back-end system that calls the meters, and finally the systems that pass all of the information on to billing. It would be extremely difficult to split up the infrastructure among multiple suppliers and identify costs associated with an individual customer that shops.

1 year contract offered next month): EGS contracts can include price re-openers if market  
2 prices increase and cancellation fees. EGSs can potentially terminate existing offers or  
3 stop making new offers. Finally, unlike the default supplier, an EGS may completely exit  
4 the business. In short, an EGS has much more flexibility than the default supplier. This  
5 flexibility allows an EGS to manage its risks through marketing, contracting, or entering  
6 and exiting the market. The EDC, as a default supplier, does not have this same  
7 flexibility and should be compensated for the risks that it assumes. Consequently, EGS  
8 price offers generally do not need to compensate for all the risks incurred by a default  
9 provider. On the other hand, EDC default service providers do not have the customer  
10 acquisition and aggregation costs that EGSs typically face. Because these differences  
11 exist, the costs and risks faced by EDCs and EGSs are often not directly comparable.

12  
13 **Q. How do you respond to Direct Energy’s alternative suggestion that the Commission**  
14 **should adopt an EGS referral program if the Commission defers revising**  
15 **Duquesne’s generation rates until POLR IV?<sup>32</sup>**

16 **A.** I have serious concerns about the customer protections in such a program. I believe there  
17 is a big difference between an EGS marketing and acquiring a customer and enrolling or  
18 “assigning” a customer to an EGS through an EGS referral program. I do not believe it  
19 is good public policy to take a customer on a default service rate with Commission  
20 oversight and switch that customer to an unregulated EGS rate not subject to Commission  
21 review in exchange for a very small dollar savings over a two month period. I am  
22 particularly troubled by the contract option approach used in New York that keeps  
23 customers on unregulated EGS price service beyond the two month introductory period

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<sup>32</sup> Direct Energy, Statement #1, at 20, line 21 to at 21, line 5.

1 without any affirmative customer action. As I understand it, the EGS is obligated within  
2 five days of the notice of enrollment to send a contract to the customer, but under the  
3 referral program guidelines, if the customer does not rescind this contract within three  
4 days of receipt, the customer is deemed to “accept” the EGS contract without any  
5 affirmative action. Furthermore, in New York, EDC resources are relied upon to market,  
6 enroll, bill, and collect the monthly payment on behalf of the EGS.

7  
8 **Q. If the Commission defers revising Duquesne’s generation rates until POLR IV, how**  
9 **do you respond to Direct Energy’s other alternative suggestion that in the event of**  
10 **non-payment of an EGS’s customer, the Commission should require Duquesne to**  
11 **pay the EGS “in full” and give Duquesne the right to terminate the defaulting**  
12 **customer’s service?<sup>33</sup>**

13 A. This raises several issues. First, as I described earlier in my testimony, this does not  
14 appear necessary in Duquesne’s service area since virtually all of the delinquent  
15 receivables are associated with default service load and/or delivery service charges.  
16 Second, upon the advice of counsel, it is my understanding that Pennsylvania EDCs  
17 currently do not have the right to terminate service for customer non-payment of EGS  
18 supply charges. Third, Direct Energy effectively seeks a guarantee that it will be paid  
19 100 cents on the dollar for everything that the EGS bills the customer. Duquesne, as the  
20 default supplier, is not afforded a similar guarantee. Fourth, it is my understanding that  
21 similar programs, like in New York, often include a discount (i.e., only pay EGSs a  
22 percentage of their billings). Finally, given the high level of shopping that already exists  
23 in Duquesne’s service area, the need for such a program is questionable.

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<sup>33</sup> Ibid., at 20 lines 13-17.

1 **IV. Allegations That Duquesne Is Subsidizing DLE Are Unsupported And Not Credible**

2 **Q. Please summarize Strategic's allegations related to Duquesne subsidizing its**  
3 **unregulated retail affiliate, Duquesne Light Energy (DLE).**

4 A. Strategic notes that Duquesne Power (DP), an unregulated wholesale supplier, is  
5 providing supply both to Duquesne, a regulated company, and DLE, an unregulated  
6 company. Strategic then expresses concerns about cost allocations and makes several  
7 unsubstantiated claims. First, Strategic states that, "if these costs [related to planning,  
8 scheduling, and coordinating its default service supply] are being claimed in distribution  
9 rates it would give DLE a distinct and unfair advantage in the competitive retail  
10 market."<sup>34</sup> Strategic claims that "an example of an indirect subsidy would be if DP is  
11 providing or paying for a service (such as scheduling, or balancing and ancillary services)  
12 for both DLC and DLE, and charging only DLC."<sup>35</sup>

13 Second, Strategic claims that another "clear potential subsidy" is DP's supply  
14 procurements are backed by Duquesne's parent company, Duquesne Light Holdings.  
15 Strategic's witness asserts that he is "confident that the ability of DLE to avoid having to  
16 post credit for its power purchases provides it with yet another cost advantage when it  
17 competes with companies like Strategic, who are usually required to post credit for such  
18 purchases."<sup>36</sup>

19 Finally, Strategic admits that "at this point in time we only have the circumstantial  
20 evidence mentioned above"<sup>37</sup> and recommends that the Commission require Duquesne to  
21 do a cost or risk sharing study for all of Duquesne's affiliates.

22  

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<sup>34</sup> Strategic, Statement #1, at 4, lines 2-7, emphasis added.

<sup>35</sup> Ibid., at 6, lines 11-13, emphasis added.

<sup>36</sup> Ibid., at 4, lines 10-18, emphasis added.

<sup>37</sup> Ibid., at 5, line 7.

1 Q. What is the motivating force behind Strategic's concerns?

2 A. Strategic states that "DLE has been able to obtain, as far as we can determine, a  
3 substantial share of DLC's large C&I customer load...by undercutting Strategic's (and  
4 we believe, other EGSs') prices."<sup>38</sup> Strategic questions how DLE could have done so  
5 much in a short time with so little.

6  
7 Q. What is your response?

8 A. I have several responses. First, Duquesne's supply agreement with DP only covers the  
9 costs associated with default service and does not include costs related to load served by  
10 DLE. I worked on the supply agreement, and throughout the development of that  
11 agreement, there was only consideration of default service supply requirements. The  
12 supply agreement was filed with the Commission and explicitly required DP to provide  
13 ancillary services (including energy imbalances cited by Strategic) related only to default  
14 service load and compensated DP for the costs of providing ancillary services. It was  
15 also understood at the time that DP would be responsible for planning, procuring, and  
16 scheduling supplies to serve default service load. These administrative costs would be  
17 incurred at DP and would have to be recovered in the rates charged to Duquesne. Just as  
18 other wholesale suppliers and EGSs typically do not unbundle these type of overhead  
19 costs into separate charges to their customers, there was no break out of individual cost  
20 components in the contract price.<sup>39</sup> The supply agreement between Duquesne and DP

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<sup>38</sup> Ibid., at 2, lines 12-15.

<sup>39</sup> For example, Direct Energy admits that it "cannot determine in any instance how much of the gross margin (if any) that it realizes on a particular sale or contract covers" related to uncollectible expense, cash working capital, customer accounting, administrative/general expenses or sales expenses associated with purchased power costs. See Interrogatory Response, Direct Energy Set I, #4 (emphasis added).

1 was a full service requirements agreement. It was filed with the Commission as a part of  
2 testimony in the POLR III proceeding and clearly delineates DP's supply obligations  
3 related to default service supply and the total price for those services. DP's obligations  
4 include planning, procurement, scheduling, providing ancillary services, and whatever  
5 other costs it must incur to provide those services to serve default service load. The  
6 compensation paid to DP is reflected in the total price paid by Duquesne. That price was  
7 subject to hearings and Commission review, and the Commission ultimately determined  
8 that Duquesne demonstrated that it represented prevailing market prices over the POLR  
9 III period. Furthermore, PJM costs related to administration, market expansion, and other  
10 management services are explicitly recovered in Duquesne's generation rates charged to  
11 retail customers as specified in Duquesne's Retail Tariff, Rider 1.<sup>40</sup> None of these costs  
12 are included in Duquesne's distribution rates. Strategic's hypothetical therefore is wrong.

13 Second, at the time when the supply agreement was developed and the POLR III  
14 rates were established in 2003, DLE did not even exist. DLE was established about two  
15 years later in 2005. Therefore, I find it extremely hard to believe that DP could have  
16 tried to recover DLE-related costs in the rates charged to Duquesne several years before  
17 DLE ever existed.

18 Third, the charge for services between Duquesne's unregulated affiliates – DP and  
19 DLE – is not relevant in this proceeding and not subject to regulatory review. These  
20 businesses are unregulated.

21 Fourth, I do not agree with Strategic's argument that corporate guarantees from  
22 Duquesne's parent company, Duquesne Light Holdings, provide DLE with a competitive

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<sup>40</sup> Duquesne Statement #5-R, Duquesne Light Company Petition for Approval of Plan for Post-Transition Period POLR Service, Docket P-00032071, Exhibit JFR-1. Also see Duquesne's Retail Tariff, Rider 1.

1 advantage relative to Strategic and many of the other EGSs. Strategic's parent company,  
2 Great Plains Energy, Inc. also provides Strategic with significant guarantees and credit  
3 support. This is stated explicitly in Great Plains Energy 2005 10-K:

4 In the normal course of business, Great Plains Energy and certain of its  
5 subsidiaries enter into various agreements providing financial or performance  
6 assurance to third parties on behalf of certain subsidiaries. Such agreements  
7 include, for example, guarantees, stand-by letters of credit and surety bonds.  
8 These agreements are entered into primarily to support or enhance the  
9 creditworthiness otherwise attributed to a subsidiary on a stand-alone basis,  
10 thereby facilitating the extension of sufficient credit to accomplish the  
11 subsidiaries intended business purposes...Great Plains Energy has provided  
12 \$122.0 million of guarantees to support certain Strategic Energy power purchases  
13 and regulatory requirements. At December 31, 2005, guarantees related to  
14 Strategic Energy are as follows:

- 15 • Great Plains Energy direct guarantees to counterparties totaling \$58.0  
16 million, which expire in 2006,
- 17 • Great Plains Energy provides indemnifications to the issuers of surety  
18 bonds totaling \$0.5 million, which expire in 2006,
- 19 • Great Plains Energy guarantees related to letters of credit totaling \$25.0  
20 million, which expire in 2006 and
- 21 • Great Plains Energy letters of credit totaling \$38.5 million.<sup>41</sup>

22 Similarly, Constellation Energy Group, CNE's parent company, reports that its  
23 "contingent obligations increased \$4.4 billion during 2005, primarily due to the issuance  
24 of additional letters of credit and guarantees by the parent company for subsidiary  
25 obligations to third parties in support of the growth of our merchant energy business."<sup>42</sup>  
26 Meanwhile Direct Energy's parent, Centrica, has annual revenues of \$33 billion from  
27 businesses scattered throughout the world and claims that credit support from Centrica  
28 "reduces costs and gives competitive advantage."<sup>43</sup> It is my understanding that all of  
29 these parent companies have both regulated and unregulated subsidiaries. Given the size  
30 and the financial position of these competitors, it is not at all clear who has a competitive

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<sup>41</sup> Great Plains Energy, Inc., *Form 10-K*, Fiscal year ended December 31, 2005, at 47-48  
(emphasis added).

<sup>42</sup> Constellation Energy Group, Inc., *Form 10-K*, Fiscal year ended December 31, 2005, at 61.

<sup>43</sup> "Centrica in North America," December 6, 2005, at 18.

1 disadvantage with respect to credit and security costs. One could easily argue DLE is at a  
2 competitive disadvantage.

3 Fifth, Strategic completely ignores the cost and considerable commodity and  
4 regulatory risks assumed by DP on behalf of Duquesne's retail customers. DP offered  
5 retail customers fixed rates for a three year period. DP assumed market price, customer  
6 switching and regulatory risks during the term of the agreement, and held its price fixed  
7 during a lengthy regulatory review period. These risks were inherent in the product  
8 provided to Duquesne's customers and in the default service generation rates that  
9 shopping customers could bypass. By comparison, EGSs seldom make similar  
10 commitments to their customers. EGSs can enter into contracts with customers that  
11 reduce the risk associated with regulatory outcomes, market rule changes, customer  
12 switching risks, and so forth. More importantly, EGSs do not offer a fixed price to  
13 customers and hold that price fixed for a 9 to 12 month period waiting to see if they will  
14 be afforded an opportunity to provide that service in the future, as Duquesne (and DP) did  
15 in the POLR III proceeding. These regulatory and commodity risks are significant and  
16 are reflected in Duquesne's default service generation rates. These risks, not typically  
17 faced by Strategic and other EGSs, provide EGSs with an opportunity to serve customers  
18 in Duquesne's service area. Clearly, this approach appears to be working in terms of  
19 shopping results relative to other jurisdictions in Pennsylvania, and for that matter, many  
20 other jurisdictions in the United States.

21 Sixth, Strategic expresses concern about DLE's ability to undercut its retail prices  
22 and successfully capture market share. I have never worked for DLE, so I am not  
23 familiar with their pricing strategy, but I do know that its pricing could be explained by a  
24 variety of factors. For instance, it is possible that DLE, as a new EGS, had an initial price

1 strategy to price low in order to capture market share with the hope of obtaining a  
2 sufficient customer base on which to build a retail business. It is also possible that it  
3 chooses to earn lower margins than those required by Strategic's management. In any  
4 event, there are many factors that can impact an EGS's pricing strategy, and there is no  
5 evidence of any kind that DLE is somehow being subsidized by Duquesne's distribution  
6 rates. Therefore, there is nothing to address in this case.

7 Finally, I am informed by the Company that despite Strategic's anecdotal  
8 evidence, DLE does not have the highest market share among EGSs in Duquesne's  
9 service area. In fact, four different suppliers in Duquesne's service area have market  
10 shares that exceed 10% of the switched load. Also, during the period cited by Strategic,  
11 overall switched load increased significantly, particularly for large C&I customers who  
12 were forced onto an hourly price default service. Between December 2004 and August  
13 2005 billed kilowatt-hours supplied by EGSs serving large C&I customers more than  
14 doubled in Duquesne's service area. Given the size of some large C&I customers, it is  
15 not surprising that a new entrant could enroll a substantial share of load in a short period  
16 of time with limited staff and resources.

17  
18 **V. New Energy Management and Price Mitigation Fund**

19 **Q. Please summarize the variety of new programs that several witnesses recommend**  
20 **should be funded.**

21 A. Penn Future witness Hanger discusses sustainable development funds that were adopted  
22 in other Pennsylvania utility restructuring settlements. Each of these funds received total  
23 funding from initial ratepayer sources of approximately \$10 to \$20 million for renewable

1 resources and energy conservation.<sup>44</sup> Mr. Hanger recommends that the Commission  
2 establish a \$15 million fund that benefits Duquesne's service territory for the period  
3 January 1, 2007 to December 31, 2010.<sup>45</sup>

4 *In addition, Penn Future witness Plunkett recommends that Duquesne spend \$14.8*  
5 *million annually between 2007 and 2009 to implement a portfolio of energy efficiency*  
6 *improvements.<sup>46</sup> Mr. Plunkett details spending levels in other states and potential*  
7 *energy-efficiency electric savings.*

8 Penn Future witness Chernick discusses throughout his testimony a variety of  
9 time-dependent pricing options that would require infrastructure improvements in  
10 advanced metering and communications, as well as more extensive customer education to  
11 *enable both small and large customers to respond to better market price signals.*

12 Depending on the size and scope of such programs, they could entail up to hundreds of  
13 millions of dollars to implement.

14 Direct Energy also suggests that Duquesne study the costs and benefits of  
15 developing and implementing an advanced metering infrastructure in its service territory  
16 to give customers greater tools to control energy costs, engage in conservation and track  
17 real-time market prices.<sup>47</sup>

18  
19 **Q. Do the witnesses describe specific activities or programs to be funded?**

20 A. Not really. While Mr. Hanger mentions a few specific recommendations, including the  
21 installation of advanced meters, converting a portion of Duquesne's vehicle fleet to

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<sup>44</sup> Penn Future Statement #1, at 17-18.

<sup>45</sup> Ibid., at 21.

<sup>46</sup> Penn Future Statement #2, at 6.

<sup>47</sup> Direct Energy Statement #1, at 21, lines 6-12.

1 hybrid vehicles, and partnering with a supplier to offer retail customers wind energy, he  
2 simply proposes targeting \$5 million for solar projects, \$5 million for wind projects, and  
3 \$5 million for methane and other TIER 1 technologies.<sup>48</sup> Mr. Plunkett does not describe  
4 specific items for the portfolio of energy efficiency improvements, but rather  
5 recommends that Duquesne enter a collaborative process with interested parties to  
6 develop an action plan for design, planning and administering such a fund.<sup>49</sup> Mr.  
7 Plunkett states that the goals of the fund should integrate planning for generation,  
8 transmission and distribution.<sup>50</sup> Likewise, Mr. Chernick recommends establishing a  
9 workgroup with interested parties to develop alternative market-responsive rates and  
10 Direct Energy suggests a study for similar purposes.

11  
12 **Q. Has the Commission also expressed an interest in improving price signals to**  
13 **customers as a means to provide customers an opportunity to avoid consumption**  
14 **during high cost hours and to help customers mitigate recent market price spikes?**

15 **A.** Yes. Just recently, the Commission initiated an investigation on policies to mitigate  
16 potential electricity increases. In the Investigation Order, the Commission stated, that:

17 Encouraging and enabling customers to use electricity more efficiently would be a  
18 key strategy for helping customers to cope with higher electricity prices.  
19 Education regarding conservation could be one component of the consumer  
20 education effort. The Commission also welcomes comments on how pricing  
21 signals or changes in rate design can be implemented that would more effectively  
22 encourage conservation by electricity consumers...Policies that reduce demand  
23 for electricity during peak usage periods – usually hot summer afternoons – would  
24 help to reduce price spikes in the wholesale energy market, and to reduce overall  
25 energy prices.”<sup>51</sup>

<sup>48</sup> Penn Future Statement #1, at 20-21.

<sup>49</sup> *Ibid.*, at 14, lines 18-21.

<sup>50</sup> *Ibid.*, at 16, lines 6-8.

<sup>51</sup> *Policies to Mitigate Potential Electricity Price Increases*, Docket M-00061957, Investigation Order, May 24, 2006, at 4-5.

1 **Q. What is Duquesne's response?**

2 A. In response, Duquesne agrees, as a general matter, that new innovative pricing and other  
3 energy management programs should be available to all customers to help alleviate high  
4 energy costs. However, there are several important caveats to keep in mind. Many of  
5 these proposals may require significant costs, which must be recovered from customers.  
6 These funds must be carefully spent. Projects must be specifically identified and  
7 carefully studied for cost effectiveness. EDC revenue impacts must also be considered.  
8 Clearly, there is not enough specificity in the proposals suggested by the parties in this  
9 case to warrant substantial immediate ratepayer funding. However, to advance this  
10 important effort, Duquesne is willing to establish a new energy management and  
11 economic development mechanism to support the future funding of certain public policy  
12 objectives, including the promotion of advanced metering and communications,  
13 voluntary time-of-use programs, energy conservation programs, economic development,  
14 and customer education. Duquesne would initiate a process to meet with interested  
15 parties in order to establish priorities and to develop an action plan. Duquesne would  
16 commit to file a plan within six months after Commission approval of the distribution  
17 rate case. The spending plan and funding mechanism would be subject to intervenor  
18 comment and Commission approval. The plan would be coordinated with Duquesne's  
19 distribution system improvements and upcoming default service filing.

20  
21 **Q. How would the programs be funded?**

22 A. The programs would be funded by a non-bypassable distribution charge on all sales to  
23 retail customers. This charge could be implemented as a rider in the Retail Tariff.

1 Duquesne recognizes that this new charge comes at time when the Company is proposing  
2 a distribution rate increase. Therefore, the Company recommends that the size of the  
3 charge should be established later after meetings with interested parties and a spending  
4 plan is developed. The size of the charge should be subject to intervenor comment and  
5 Commission approval. Customers need relief from high prices and carefully developed  
6 initiatives could provide a valuable resource to mitigate price increases in the future.  
7

8 **Q. What projects would the funds be used for?**

9 A. This will depend on the results of the meetings with interested parties and Commission  
10 approval. While it is not possible at this time to define specific projects the funds will be  
11 used for, Duquesne recommends that the Commission adopt six guiding principles.

- 12 • First, funds should be distributed in a manner that is competitively neutral, so that  
13 both default service and shopping customers may benefit. For example, data  
14 available from advanced metering should be available to EGSs that offer competitive  
15 services. Customers should be able to receive the benefits of any expenditures on a  
16 comparable basis regardless of whether they shop or remain on default service.
- 17 • Second, funds should be targeted toward the promotion of advanced metering and  
18 communications, voluntary time-of-use programs, energy conservation programs,  
19 economic development and customer education. Customer participation in funded  
20 programs would be voluntary.<sup>52</sup> The funds should not be used to “force” customers  
21 onto unwanted new pricing programs, but rather serve as an option to more traditional  
22 rate design.

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<sup>52</sup> Duquesne notes that the OCA supports the development of voluntary, as opposed to mandatory, residential time of use programs.

- 1 • Third, the funds should be distributed in a manner that appropriately balances the  
2 interests of small and large customer interests. For example, funds collected  
3 primarily from small customers would not be used to fund programs for large  
4 customers and funds collected primarily from large customers would not be used to  
5 fund measures for small customers.
- 6 • Fourth, the funds should be distributed in a manner that takes into account the  
7 potential costs and benefits of a particular initiative, the priorities of interested parties,  
8 and the fund's overall budget.
- 9 • Fifth, the fund should be designed so as not to benefit nor harm Duquesne's  
10 shareholders. To be clear, Duquesne's shareholders would not retain any funds that  
11 are unspent.
- 12 • Sixth, customer education should be an important component of new programs  
13 designed to help customers manage their consumption more efficiently.
- 14

15 **Q. Does the Pennsylvania Competition Act support the use of a non-bypassable charge**  
16 **to fund public policy objectives?**

17 **A. Yes, the Competition Act includes several references regarding the need to maintain and**  
18 **improve upon the Commonwealth's ability to achieve important public policy objectives.**

19 There are certain public purpose costs, including programs for low-income  
20 assistance, energy conservation and others, which have been implemented and  
21 supported by public utilities' bundled rates. The public purpose is to be promoted  
22 by continuing universal service and energy conservation policies, protections and  
23 services; and full recovery of such costs is to be permitted through a non-  
24 bypassable rate mechanism. §2802 (17).

25  
26 The cost of electricity is an important factor in decisions made by businesses  
27 concerning locating, expanding and retaining facilities in this commonwealth.  
28 This commonwealth must begin the transition from regulation to greater  
29 competition in the electricity generation market to benefit all classes of customers

1 and to protect this commonwealth's ability to compete in the national and  
2 international marketplace for industry and jobs. §2802 (6)(7).  
3

4 Flexible pricing. – In addition to the implicit authority of the commission under  
5 section 501 (relating to general powers), the commission has the authority to  
6 approve flexible pricing and flexible rates, including negotiated, contract-based  
7 tariffs designed to meet the specific needs of a utility customer and to address  
8 competitive alternatives. §2806 (H).  
9

10 **Q. Could the size of the charge be adjusted over time?**

11 A. Yes. Depending on the number and scope of worthwhile programs that are identified, the  
12 size of the charge potentially could be increased, decreased or even eliminated over time.  
13 Duquesne recommends that any proposed change in the level of funding be subject to an  
14 intervenor comment period and Commission approval.  
15

16 **Q. How would the fund be administered?**

17 A. That depends on the ultimate initiatives to be funded. Some projects may be managed  
18 more appropriately by a third party contractor that specializes in a particular area, while  
19 others can be efficiently managed by Duquesne. At least initially, after meeting with  
20 interested parties, Duquesne would file an initial report to the Commission regarding the  
21 proposed initiatives. Duquesne will also commit to file an annual report on the status of  
22 program activities – both funded and proposed. The report would detail program  
23 revenues and costs, as well as describe potential and realized benefits.  
24

25 **Q. When would the new charge become effective?**

26 A. It is not yet known. Duquesne plans to meet with interested parties and make a  
27 recommendation to the Commission on the size of the charge and how the funds will be

1 spent. After an intervenor comment period and subsequent Commission approval, the  
2 charge would become effective.

3

4 **Q. Does this conclude your testimony?**

5 **A. Yes.**

U.S. Retail Access Shopping Statistics

Residential Customer Load				
Rank	Utility	State	Migration Rate	Notes
1	Commonwealth Electric Co.	MA	49%	_a/
2	AEP Texas North Company	TX	42%	_b/
3	Orange and Rockland Utilities	NY	37%	_c/
4	AEP Texas Central Company	TX	34%	_b/
5	Texas-New Mexico Power	TX	33%	_b/
6	Centerpoint	TX	31%	_b/
7	TXU	TX	30%	_b/
8	Rochester Gas & Electric	NY	25%	
9	Duquesne Light Co.	PA	20%	
10	Ohio Edison	OH	17%	_a/
11	Toledo Edison	OH	11%	_a/
12	Cleveland Electric Illuminating	OH	10%	_a/
13	New York State Electric & Gas	NY	9%	
14	Niagara Mohawk Power Corp.	NY	8%	
15	Consolidated Edison	NY	8%	
16	Potomac Electric Power Co.	MD	7%	
17	Massachusetts Electric Co.	MA	2%	
18	Cincinnati Gas & Electric	OH	2%	
19	Western Massachusetts Electric Co.	MA	2%	
20	Maine Public Service Co.	ME	2%	
21	Potomac Electric Power Co.	DC	2%	
22	Central Hudson Gas & Electric	NY	1%	
23	PSEG	NJ	1%	
24	Atlantic City Electric	NJ	1%	
25	Boston Edison Co.	MA	1%	
26	JCP&L	NJ	1%	
27	PECO Energy Co.	PA	1%	
27	Bangor Hydro Electric Co.	ME	1%	
27	Central Maine Power Co.	ME	1%	
30	Cambridge Electric Light Co.	MA	0%	
31	Narragansett Electric Co.	RI	0%	
32	Baltimore Gas & Electric	MD	0%	
33	Delmarva Power & Light	MD	0%	
34	Fitchburg Gas & Electric	MA	0%	
35	Detroit Edison	MI	0%	
36	Delmarva Power & Light	DE	0%	
36	AmerenCILCO	IL	0%	
36	AmerenCIPS	IL	0%	
36	Commonwealth Edison	IL	0%	
36	Illinois Power	IL	0%	
36	MidAmerican Energy Company	IL	0%	
36	Allegheny (Potomac Edison, Monongahela)	MD	0%	
36	Consumers Energy	MI	0%	
36	Rockland Electric	NJ	0%	
36	Columbus Southern Power Co.	OH	0%	
36	Dayton Power & Light	OH	0%	
36	Ohio Power Company	OH	0%	
36	Allegheny Power (West Penn Power)	PA	0%	
36	Met Ed / Penelec	PA	0%	
36	Pennsylvania Power & Light	PA	0%	
36	Pennsylvania Power Co.	PA	0%	

Notes:  
Some differences exist in how jurisdictions define customer groups and in how they measure customer shopping.  
\_a/ Has opt-out customer assignment program.  
\_b/ Assignment to Texas PTB provider with natural gas price fuel factor index.  
\_c/ Customer referral program.

Source: State websites; Duquesne figures based on Company billed kWh as of June 2006.

U.S. Retail Access Shopping Statistics

Exhibit NSF-1

Page 2 of 3

Small Customer Load				
Rank	Utility	State	Migration Rate	Notes
1	AEP Texas Central Company	TX	83%	_b/
2	AEP Texas North Company	TX	82%	_b/
3	TXU	TX	68%	_b/
4	Texas-New Mexico Power	TX	67%	_b/
5	Rochester Gas & Electric	NY	62%	
6	Commonwealth Electric Co.	MA	61%	_a/
7	Centerpoint	TX	59%	_b/
8	Niagara Mohawk Power Corp.	NY	56%	
9	Orange and Rockland Utilities	NY	49%	d/
10	Duquesne Light Co.	PA	49%	c/
11	Potomac Electric Power Co.	MD	48%	
12	New York State Electric & Gas	NY	48%	
13	Consolidated Edison	NY	46%	
14	Baltimore Gas & Electric	MD	41%	
15	Toledo Edison	OH	39%	_a/
16	Central Maine Power Co.	ME	36%	
17	Bangor Hydro Electric Co.	ME	37%	
18	Western Massachusetts Electric Co.	MA	36%	
19	Maine Public Service Co.	ME	36%	
20	Massachusetts Electric Co.	MA	34%	
21	Commonwealth Edison	IL	30%	
22	Delmarva Power & Light	MD	29%	
23	Ohio Edison	OH	29%	
24	Detroit Edison	MI	26%	
25	Central Hudson Gas & Electric	NY	22%	
26	Allegheny (Potomac Edison, Monongahela)	MD	21%	
27	Duquesne Light Co.	PA	21%	c/
28	Fitchburg Gas & Electric	MA	21%	
29	Cleveland Electric Illuminating	OH	20%	
30	Boston Edison Co.	MA	18%	
31	Cambridge Electric Light Co.	MA	15%	
32	Dayton Power & Light	OH	14%	
33	Consumers Energy	MI	11%	
34	PECO Energy Co.	PA	11%	
35	Cincinnati Gas & Electric	OH	9%	
36	Narragansett Electric Co.	RI	9%	
37	Illinois Power	IL	5%	
38	Columbus Southern Power Co.	OH	5%	
39	PSEG	NJ	1%	
40	Atlantic City Electric	NJ	1%	
41	JCP&L	NJ	1%	
42	AmerenCIPS	IL	0%	
43	Pennsylvania Power & Light	PA	0%	
44	AmerenCILCO	IL	0%	
45	MidAmerican Energy Company	IL	0%	
45	Rockland Electric	NJ	0%	
45	Ohio Power Company	OH	0%	
45	Allegheny Power (West Penn Power)	PA	0%	
45	Met Ed / Penelec	PA	0%	
45	Pennsylvania Power Co.	PA	0%	

Notes:  
 Some differences exist in how jurisdictions define customer groups in terms of size and type, and in how they measure customer shopping.  
 \_a/ Has opt-out customer assignment program.  
 \_b/ Assignment to Texas PTB provider with natural gas price fuel factor index.  
 \_c/ As reported by OCA for commercial customers (July 2006).  
 \_d/ Customer referral program.  
 \_e/ Duquesne figures for small C&I customers <300 kW (billed kWh as of June 2006).  
 Source: State websites.

## U.S. Retail Access Shopping Statistics

Exhibit NSF-1  
Page 3 of 3

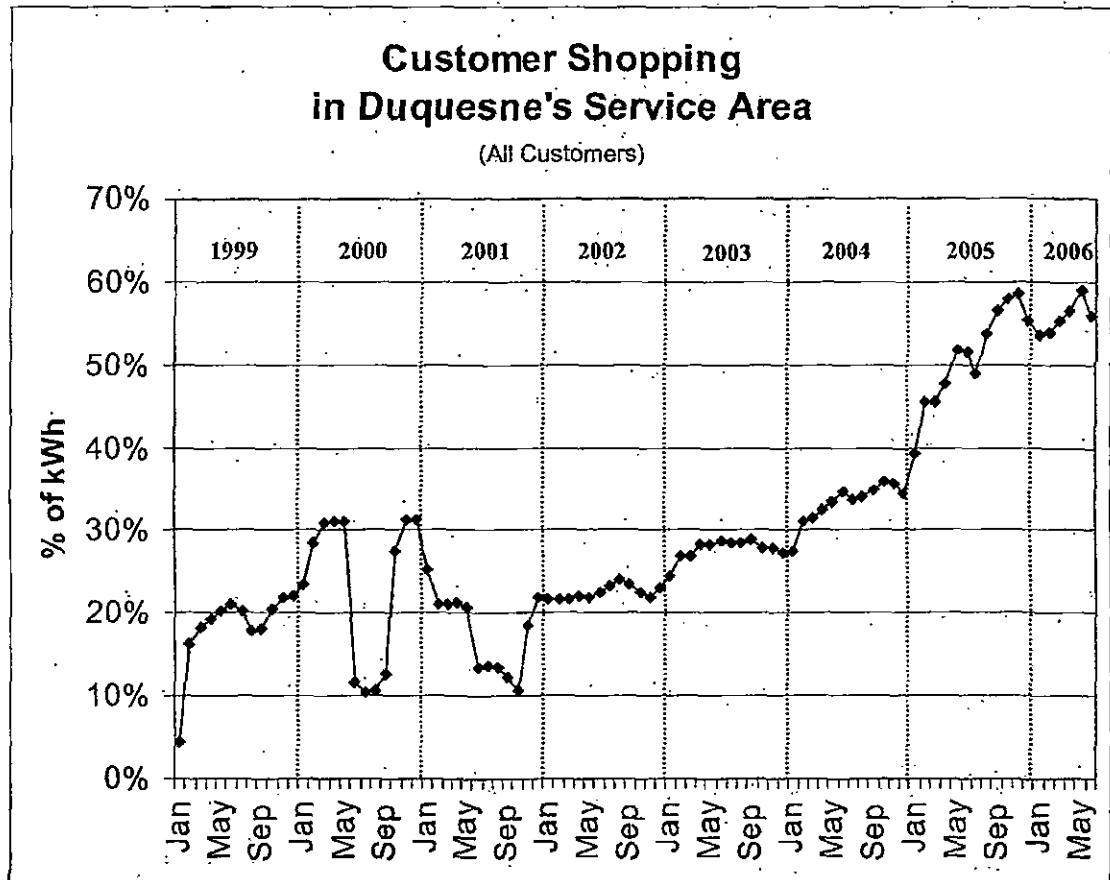
Large Customer Load			
Rank	Utility	State	Migration Rate
	Duquesne Light Co.	PA	95%
2	Baltimore Gas & Electric	MD	94%
3	Fitchburg Gas & Electric	MA	94%
4	Delmarva Power & Light	MD	94%
5	Atlantic City Electric	NJ	92%
6	Potomac Electric Power Co.	MD	91%
7	Commonwealth Electric Co.	MA	90%
8	Maine Public Service Co.	ME	90%
9	Allegheny (Potomac Edison, Monongahela)	MD	89%
10	Consolidated Edison	NY	89%
11	Western Massachusetts Electric Co.	MA	88%
12	Central Maine Power Co.	ME	88%
13	JCP&L	NJ	88%
14	Duquesne Light Co.	PA	87%
15	PSEG	NJ	86%
16	Massachusetts Electric Co.	MA	86%
17	Central Hudson Gas & Electric	NY	83%
18	Boston Edison Co.	MA	81%
19	Rockland Electric	NJ	77%
20	Rochester Gas & Electric	NY	73%
21	New York State Electric & Gas	NY	72%
22	Cambridge Electric Light Co.	MA	70%
23	Niagara Mohawk Power Corp.	NY	67%
24	Bangor Hydro Electric Co.	ME	64%
25	Dayton Power & Light	OH	62%
26	Commonwealth Edison	IL	57%
27	Orange and Rockland Utilities	NY	41%
28	Narragansett Electric Co.	RI	28%
29	AmerenCILCO	IL	28%
30	Consumers Energy	MI	22%
31	Ohio Edison	OH	18%
32	Detroit Edison	MI	13%
33	Illinois Power	IL	11%
34	Cleveland Electric Illuminating	OH	11%
35	AmerenCIPS	IL	2%
36	Toledo Edison	OH	2%
37	Cincinnati Gas & Electric	OH	1%
38	PECO Energy Co.	PA	0%
39	MidAmerican Energy Company	IL	0%
39	Columbus Southern Power Co.	OH	0%
39	Ohio Power Company	OH	0%
39	Allegheny Power (West Penn Power)	PA	0%
39	Met Ed / Penelec	PA	0%
39	Pennsylvania Power & Light	PA	0%
39	Pennsylvania Power Co.	PA	0%

Notes:  
Some differences exist in how jurisdictions define customer groups in terms of size and type, and in how they measure customer shopping.

a/ Duquesne figures for large C&I customers >300 kW (billed kWh as of June 2006).

b/ As reported by OCA for industrial customers (July 2006).

Source: State websites.



Source: Duquesne

Interrogatory Responses

10/1/2013

10/1/2013

Responses of Constellation NewEnergy, Inc. to Interrogatories and Requests for Production of Documents – Set I of Duquesne Light Company, submitted in Docket No. R-00061346 before the Pa PUC.

**Interrogatory No. 1.**

Statement No. 1, p. 4, lines 9-11: Provide a list of all the service areas by U.S. state in which Constellation NewEnergy currently serves retail customers.

**Response:** Constellation currently serves retail customers in the following states: California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, and the District of Columbia.

**Answered and averred by:** Martha A. Duggan

Responses of Constellation NewEnergy, Inc. to Interrogatories and Requests for Production of Documents – Set I of Duquesne Light Company, submitted in Docket No. R-00061346 before the Pa PUC.

**Interrogatory No. 4.**

Statement No. 1, p. 6, lines 7-8: Provide a list of all the service areas in which Constellation NewEnergy currently serves retail customers that require the POLR supplier to hold four or more meetings per calendar year with all interested EGSS. In each service area where such a process exists, indicate whether the witness is aware whether or not such a process was established as a result of a settlement among parties or mandated by regulators or the legislature.

**Response:** Upon information and belief, there are no other service areas in Pennsylvania in which Constellation currently provides service to retail customers where the activities of the POLR supplier necessitated the need for the POLR supplier to hold four or more meetings per calendar year with all interested EGSSs. The witness's experience is that POLR suppliers in other service areas are much more responsive to supplier needs and are supportive of retail choice as mandated by legislative or PUC policy in those states. The witness's recommendation is intended to proactively address activities that hinder the development of electric choice. The witness also disagrees with the implicit assumption embedded in this Interrogatory that it is advisable for the Commission to wait to implement such corrective measures in Duquesne Light's service territory until they have been adopted in another service area in Pennsylvania or another state. Pennsylvania has always been a leader in developing competitive markets, and whether the recommended step has been taken in other service territories is irrelevant if the recommendation could solve the problem.

**Answered and averred by:** Martha A. Duggan

Responses of Constellation NewEnergy, Inc. to Interrogatories and Requests for Production of Documents – Set I of Duquesne Light Company, submitted in Docket No. R-00061346 before the Pa PUC.

**Interrogatory No. 5.**

Statement No. 1, p. 6, lines 12-14: Provide a list of all the service areas in which Constellation NewEnergy currently serves retail customers that require the POLR supplier to hold two or more meetings per calendar year with all interested EGSs and interested Commercial and Industrial Customers. In each service area where such a process exists, indicate whether the witness is aware whether or not such a process was established as a result of a settlement among parties or mandated by regulators or the legislature.

**Response:** Please see the response to Interrogatory No. 4

**Answered and averred by:** Martha A. Duggan

Responses of Constellation NewEnergy, Inc. to Interrogatories and Requests for Production of Documents – Set I of Duquesne Light Company, submitted in Docket No. R-00061346 before the Pa PUC.

**Interrogatory No. 9.**

Statement No. 1, p. 7, lines 1-3: Is Constellation NewEnergy required to provide its market share publicly in jurisdictions in which its affiliate is the POLR supplier? If so, how often and where is such information reported?

**Response:** Constellation is not required to provide its market share publicly in jurisdictions in which its affiliate is the POLR supplier. However, Constellation has provided data on load served to the Maryland Public Service Commission in its annual Maryland Electric Supplier Survey.

**Answered and averred by:** Martha A. Duggan

Responses of Constellation NewEnergy, Inc. to Interrogatories and Requests for Production of Documents – Set I of Duquesne Light Company, submitted in Docket No. R-00061346 before the Pa PUC.

**Interrogatory No. 11.**

Statement No. 1, p. 7, lines 4-5: Provide a list of all the service areas in which Constellation NewEnergy currently serves retail customers that require the POLR supplier to establish a dispute resolution process like that being contemplated by Constellation NewEnergy. In each service area where such a process exists, indicate whether the witness is aware whether or not such a process was established as a result of a settlement among parties or mandated by regulators or the legislature.

**Response:** Upon information and belief, there are no other service areas in which Constellation currently serves retail customers in which there has been a need for the POLR supplier to establish a dispute resolution process like that being contemplated by Constellation. The witness's recommendation is intended to proactively address activities that hinder the development of electric choice. The witness also disagrees with the implicit assumption embedded in this Interrogatory that it is advisable for the Commission to wait to implement such corrective measures in Duquesne Light's service territory until they have been adopted in another service area in Pennsylvania or another state. Pennsylvania has always been a leader in developing competitive markets, and whether the recommended step has been taken in other service territories is irrelevant if the recommendation could answer the problem.

**Answered and averred by:** Martha A. Duggan

Responses of Constellation NewEnergy, Inc. to Interrogatories and Requests for Production of Documents – Set I of Duquesne Light Company, submitted in Docket No. R-00061346 before the Pa PUC.

**Interrogatory No. 18.**

Statement No. 1, p. 16, line 12: Define what is meant by “a limited number of participating EGSs.”

**Response:** If the only EGS serving the market is an affiliate of the EDC, that would constitute “a limited number of participating EGSs.” It is the witness’s opinion that there are a sufficient number of EGSs currently participating in the Duquesne Light territory.

**Answered and averred by:** Martha A. Duggan

RESPONSE OF DIRECT ENERGY SERVICES LLC (DIRECT ENERGY) TO  
DUQUESNE LIGHT COMPANY'S INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS - SET I IN DOCKET NOS. R-00061346, ET AL.,  
DATED JULY 13, 2006

REQUEST

4. Statement No. 1, p. 5, lines 11-12

Mr. Lacey asserts that shopping customers will be overpaying "since they will be required to pay twice for the same costs."

- a. Provide the dollar and \$/MWH breakdown of the costs Direct Energy actually incurs in Duquesne Light's service area for the items listed on p. 11, lines 4-6 (uncollectible expense, cash working capital, customer accounting, administrative/general expenses or sales expenses associated with purchased power costs).
- b. Provide Direct Energy's average \$/MWH charge or markup to its power purchase costs for the for the items listed on p. 11, lines 4-6 that it charges retail customers in Duquesne Light's service area.

RESPONSE

a. While Direct Energy is not currently serving any customers in Duquesne's service territory, like all competitive suppliers, Direct is not rate regulated. As such, Direct Energy does not break down its costs in a manner similar to the way a utility is required to break down its costs. Thus Direct cannot determine in any instance how much of the gross margin (if any) that it realizes on a particular sale of contract covers any of the specific costs indicated in the question. While Direct Energy must collect a margin to cover such costs (and others), it works in a competitive environment and can earn a margin on its sales that is commensurate with what the market will bear on any given day. That margin needs to cover all of the expenses that the company incurs.

b. Direct Energy is not serving customers in the Duquesne Light service territory. In addition, see answer to part a. above.

Witness: Frank Lacey

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
v. :  
Duquesne Light Company :

Docket No. R-00061346

DOCUMENT  
FOLDER

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Interrogatories, Set XIV, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7<sup>th</sup> day of August 2006.

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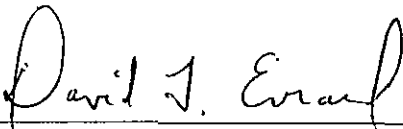
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