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March 1, 2017

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Petition of Duquesne Light Company for Approval of a Distribution System
Improvement Charge - Docket No. P-2016-2540046**

Dear Secretary Chiavetta:

Enclosed please find the Joint Petition for Settlement of All Issues in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/jl
Enclosures

cc: Certificate of Service
Honorable Katrina L. Dunderdale

CERTIFICATE OF SERVICE

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

VIA E-MAIL AND REGULAR MAIL

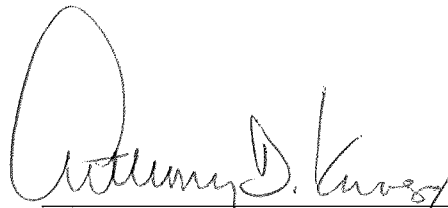
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*Counsel for Community Action Association
of PA*

Date: March 1, 2017



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company For	:	
Approval of its Long-Term Infrastructure	:	Docket No. P-2016-2540046
Improvement Plan	:	
	:	
and	:	
	:	
Petition of Duquesne Light Company For	:	
Approval of a Distribution System	:	Docket No. P-2016-2540046
Improvement Charge	:	

JOINT PETITION FOR SETTLEMENT OF ALL ISSUES

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

I. INTRODUCTION

The Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”) and Duquesne Light Company (“Duquesne Light” or the “Company”), parties to the above-captioned proceedings (hereinafter collectively referred to as the “Joint Petitioners”), hereby join in this Joint Petition for Settlement of All Issues (“Settlement”) and respectfully request that Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) and the Commission approve this Settlement without modification. The Office of Small Business Advocate (“OSBA”) and the Community Action Association of Pennsylvania (“CAAP”), the only other parties in this proceeding, have indicated that they do not oppose the Settlement.

As fully set forth and explained below, the Joint Petitioners have agreed to a settlement of all issues in the above-captioned proceeding. The Settlement provides for: (1) exclusion of any microgrid costs from Duquesne Light’s Long-Term Infrastructure Improvement Plan (“LTIIIP”) as filed on April 15, 2016, and from its Distribution System Improvement Charge (“DSIC”) as filed on May 26, 2016, without prejudice to the Company filing an amended LTIIIP and DSIC in

the future to include such costs in the LTIP and DSIC as appropriate; (2) inclusion of certain riders in distribution revenue for purposes of calculating the DSIC rate cap; and (3) compliance with future Commission directives regarding treatment of federal and state income tax deductions in calculating the DSIC charge. The Joint Petitioners represent that this Settlement is a reasonable resolution of this proceeding and is in the public interest and, therefore, request that the ALJ and Commission approve this proposed Settlement without modification as set forth herein. In support of this Settlement, the Joint Petitioners state as follows:

II. BACKGROUND

1. Duquesne Light is a “public utility” and an “electric distribution company” as those terms are defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803. Duquesne Light furnishes electric distribution service to approximately 590,000 customers within its service territory that covers approximately 817 square miles, including the City of Pittsburgh and Allegheny and Beaver Counties, Pennsylvania.

2. On April 15, 2016, Duquesne Light filed the above-captioned Petition for Approval of its LTIP (“LTIP Petition”). In the LTIP Petition, Duquesne Light requested that the Commission approve its proposal for accelerating the repair, improvement and replacement of aging infrastructure for the six-year period beginning January 1, 2017 through December 31, 2022.

3. The OSBA filed an Answer and Notice of Intervention to Duquesne Light’s LTIP Petition. The OCA, I&E and Citizen Power Inc. provided comments on the LTIP Petition.

4. On May 26, 2016, Duquesne Light filed the above-captioned Petition for Approval of a Distribution System Improvement Charge (“DSIC Petition”) and supporting Direct Testimony. In the Petition, Duquesne Light requested that the Commission approve its

proposed pro forma Tariff Supplement to Electric – Pa. P.U.C. No. 24 to introduce the DSIC Rider into the Company’s tariff with an effective date of October 1, 2016.

5. I&E and OCA filed Answers to Duquesne Light’s DSIC Petition.

6. On September 15, 2016, the Commission entered an Order approving Duquesne Light’s LTIP Petition and DSIC Petition, subject to refund, and referred the following two issues to the Office of Administrative Law Judge (“OALJ”) for resolution: (1) DSIC-recovery of costs associated with Duquesne Light’s Microgrid Program; and (2) the inclusion of certain riders in distribution revenues when calculating the DSIC mechanism. (Order, p. 40.)

7. In accordance with the Commission’s September 15, 2016 Order, Duquesne Light issued Supplement No. 141 to Tariff Electric Pa. P.U.C. No. 24 on September 20, 2016, to become effective on October 1, 2016. Supplement No. 141 adds the DSIC Rider to Duquesne Light’s tariff.

8. On October 6, 2016, the ALJ issued a Prehearing Conference Order setting forth rules for the Prehearing Conference to be held on October 17, 2016.

9. On October 12, 2016, CAAP filed a Petition to Intervene.

10. I&E, OCA, OSBA, CAAP and Duquesne Light filed prehearing memoranda.

11. At the prehearing conference, CAAP’s Petition to Intervene was granted and a procedural schedule was established.

12. The Joint Petitioners undertook formal and informal discovery in the proceeding. Pursuant to the procedural schedule, certain of the Joint Petitioners served direct, rebuttal, surrebuttal and rejoinder testimony in support of their respective positions.

13. The Joint Petitioners held several settlement conferences in this proceeding. As a result of these conferences and the efforts of the Joint Petitioners to examine the issues raised by

the parties and the Commission, a Settlement in Principle was achieved by the Joint Petitioners prior to the date for the evidentiary hearings. On January 19, 2017, the Company advised the ALJ of the Settlement in Principle and requested that the ALJ suspend the procedural schedule.

14. On January 24, 2017, an evidentiary hearing was held for the purpose of admitting certain parties' written testimony and exhibits into the record.

15. On January 26, 2017, the ALJ issued an Order suspending the litigation schedule and directing the parties to file the Settlement and statements in support on or before March 1, 2017.

16. In the January 26, 2017 Order, the ALJ directed the Parties to indicate how they answered the questions listed by the Commission in its September 15, 2016 Order, including:

- DSIC recovery of costs associated with Duquesne Light's Microgrid program, and
- The inclusion of riders in distribution revenues when calculating the DSIC mechanism.

17. The Joint Petitioners have been able to agree to a resolution of all issues that were referred to the OALJ for hearing and recommended decision in the proceeding. The Settlement substantively addresses the issues that the Commission remanded for hearings in the September 16, 2017 Order. The Joint Petitioners are in full agreement that the Settlement is in the best interests of Duquesne Light, the Joint Petitioners and the Company's customers. The Settlement is set forth in the following Section.

III. SETTLEMENT

18. The following terms of this Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners unanimously

agree that the Settlement, which resolves all issues in this proceeding, is in the public interest. The Joint Petitioners respectfully request that Duquesne Light's LTIIP and DSIC filings be approved with the following conditions.

19. Duquesne Light has not proposed a detailed microgrid program in its LTIIP, or proposed to include recovery of any microgrid costs in its DSIC at this time. Duquesne Light will not recover any microgrid costs in its DSIC unless and until: (1) Duquesne Light makes a specific microgrid filing with the Commission, if any, and (2) the Commission approves recovery of microgrid costs in the DSIC. This Settlement does not reflect any agreement that microgrid costs are DSIC eligible. In addition, the Settlement does not preclude Duquesne Light from repairing, improving or replacing its existing distribution facilities necessary for reliable grid operations at the Woods Run Facility and nearby locations under its approved LTIIP and recovering such costs under the DSIC. If Duquesne Light makes a filing proposing to recover microgrid costs in the DSIC, all parties reserve their rights to oppose such filing.

20. Duquesne Light will include the Retail Market Enhancement Surcharge, Universal Service Charge, Energy Efficiency & Conservation Surcharge and Smart Meter Charge in distribution revenues when calculating the DSIC for purposes of calculating the DSIC rate cap and will apply the DSIC to these Riders. The State Tax Adjustment Surcharge ("STAS") will be excluded from the DSIC calculation, and the DSIC will not be applied to the STAS.

21. The Parties recognize that issues raised by OCA regarding treatment of federal and state income tax deductions in calculating the DSIC charge are currently being litigated before the Commission in the First Energy Companies' consolidated DSIC proceeding at Docket Nos. P-2015-2568942, P-2015-2508936, P-2015-2508931 and P-2015-2508948. The Joint

Petitioners agree that Duquesne Light will follow Commission Orders regarding whether to exclude or include ADIT in the DSIC calculation and whether or not to adjust the state income tax rate used to calculate DSIC revenue requirement to reflect actual state income taxes paid in future DSIC filings.

IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST

22. This Settlement was achieved by the Joint Petitioners after an investigation of Duquesne Light's LTIP and DSIC filings, including informal and formal discovery and the filing of direct testimony, rebuttal testimony, surrebuttal testimony and rejoinder testimony by a number of the Joint Petitioners. The parties' testimony fully addressed the issues raised in the Commission's September 15, 2016 Order. *See* OCA St. No. 1, pp. 3-9; I&E St. No. 1, pp. 2-4; Duquesne Light St. No. 3-R, pp. 2-6; Duquesne Light St. No. 4-RJ, pp. 1-3. With respect to the Commission's question concerning recovery of Duquesne Light's microgrid costs through the DSIC, the Settlement provides that Duquesne Light will not recover microgrid costs in its DSIC at this time, but may make a filing based upon specific plans and costs for recovery through the DSIC in the future. Microgrid costs are not included in the LTIP as filed on April 15, 2016 or the DSIC filed on May 26, 2016.¹ This provision ensures that parties will have an opportunity to examine the reasonableness of any microgrid proposal based upon the specific microgrid plan in a future filing.

23. The Settlement also resolves the Commission's question regarding which riders to include when calculating distribution revenues for purposes of the DSIC by providing that Duquesne Light will include the Retail Market Enhancement Surcharge, Universal Service Charge, Energy Efficiency & Conservation Surcharge and Smart Meter Charge in distribution

¹ The DSIC tariff filed on May 26, 2016 has no specific language authorizing recovery of microgrid costs, and therefore, does not need to be modified under this Settlement.

revenues when calculating the DSIC rate cap and will apply the DSIC to these Riders. The Settlement also provides that the STAS will be excluded from the DSIC calculation, and the DSIC will not be applied to the STAS in accordance with 66 Pa. C.S. § 1357(d).

24. Further, the Settlement ensures that Duquesne Light's treatment of federal and state income tax deductions in calculating the DSIC will comply with the Commission's direction on those issues.

25. Acceptance of the Settlement will avoid the necessity of further administrative proceedings at a substantial cost to the Joint Petitioners.

26. The Settlement has been agreed to by all parties in this proceeding including representatives of residential, small business and low-income customer groups.

27. Approval of this Settlement will allow Duquesne Light to continue recovering eligible investments, as identified in the Company's LTIIP, through its DSIC based upon a DSIC calculation that the Parties have determined to be fair, reasonable and in accordance with the Commission's directives regarding the DSIC.

28. Attached as Appendices "A" through "C" are Statements of Support submitted by Duquesne Light, I&E and OCA setting forth the bases upon which they believe the Settlement is fair, just and reasonable and, therefore, in the public interest. Also attached as Appendices "D" and "E" are Letters of Non-Opposition from OSBA and CAAP, respectively.

V. CONDITIONS OF SETTLEMENT

29. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Settlement without modification. If the Commission modifies the Settlement, any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon

all Joint Petitioners within five (5) business days after the entry of an Order modifying the Settlement.

30. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding.

31. This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding. If the Commission does not approve the Settlement and the proceeding continues, the Joint Petitioners reserve their respective rights, including the right to present additional testimony, participate in hearings and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner may adopt in the event of any subsequent litigation of this proceeding, or in any other proceeding.

32. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

33. The Commission's approval of the Settlement shall not be construed to represent approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement.

34. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise, and does not necessarily represent the position(s) that would be advanced by any party in this proceeding if it were fully litigated.

35. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position that any of the Parties may have advanced and without prejudice to the position any of the Parties may

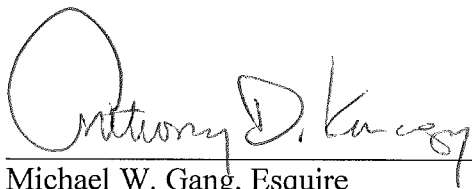
advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement. This Settlement does not preclude the Joint Petitioners from taking other positions in proceedings of other electric distribution companies.

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

VI. CONCLUSION

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the Honorable Administrative Law Judge Katrina L. Dunderdale and the Pennsylvania Public Utility Commission approve this Settlement including all terms and conditions thereof and enter an order consistent with this Settlement, terminating these proceedings and approving Duquesne Light Company's LTIP Petition and DSIC Petition as modified by the Settlement provisions.

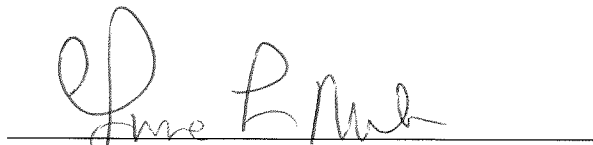
AGREED TO BY:



Michael W. Gang, Esquire
Anthony D. Kanagy, Esquire
Post & Schell, P.C.
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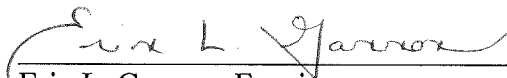
Date: 3/1/17

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For Duquesne Light Company



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Date: 3/1/2017



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For Office of Consumer Advocate

Date: 03/01/2017

Appendix A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company For	:	
Approval of its Long-Term Infrastructure	:	Docket No. P-2016-2540046
Improvement Plan	:	
	:	
and	:	
	:	
Petition of Duquesne Light Company For	:	
Approval of a Distribution System	:	Docket No. P-2016-2540046
Improvement Charge	:	

**STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT OF ALL ISSUES**

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

I. INTRODUCTION

Duquesne Light Company (“Duquesne Light” or the “Company”) hereby files this Statement in Support of the Joint Petition for Settlement of All Issues (“Settlement”) entered into by Duquesne Light, the Bureau of Investigation & Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) and the Office of Consumer Advocate (“OCA”) (hereinafter, collectively “Joint Petitioners”) in the above-captioned proceeding.¹ Duquesne Light respectfully requests that Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) and the Commission approve the Settlement, including the terms and conditions thereof, without modification.

The Settlement, if approved, will resolve all of the issues remanded by the Commission in this proceeding, including: (1) whether Duquesne Light’s Distribution System Improvement

¹ The Office of Small Business Advocate (“OSBA”) and the Community Action Association of Pennsylvania (“CAAP”), the only other parties in this proceeding, have indicated that they do not oppose the Settlement.

Charge (“DSIC”) should recover costs associated with the Company’s microgrid program; and (2) which riders should be included in distribution revenues when calculating the DSIC. The Settlement fully resolves these issues and is in the public interest. The Settlement also addresses OCA’s concerns about income tax deductions and credits.

The Settlement was achieved only after the Joint Petitioners comprehensively investigated the issues raised by Duquesne Light’s Petitions for Approval of its Long-Term Infrastructure Improvement Plan (“LTIIP”) and DSIC through formal and informal discovery and held numerous settlement discussions and formal negotiations, which ultimately led to the Settlement.

For these reasons and the reasons set forth below, the Settlement is just and reasonable and in the public interest. Therefore, the Settlement should be approved without modification.

II. COMMISSION POLICY FAVORS SETTLEMENT

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231(a). Settlements reduce the time and expense that the parties must expend litigating a case and, at the same time, conserve administrative resources. The Commission has stated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401. To accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order Entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

The Settlement reflects a carefully-balanced compromise of the interests of all of the Joint Petitioners. In the Commission’s Order entered September 15, 2016, the Commission referred the issues of “DSIC-recovery of costs associated with Duquesne’s Microgrid Program”

and “[t]he inclusion of riders in distribution revenues when calculating the DSIC mechanism” to the Office of Administrative Law Judge for hearings and a recommended decision. *Petition of Duquesne Light Co. for Approval of its Long-Term Infrastructure Improvement Plan*, Docket Nos. P-2016-2540046, *et al.*, p. 40 (Order Entered Sept. 15, 2016) (“*September 2016 Order*”). As explained below, the Settlement represents a fair and reasonable compromise of the Joint Petitioners’ positions on these issues.

A. DSIC-RECOVERY OF MICROGRID PROGRAM COSTS

Duquesne Light originally identified the microgrid program as a DSIC-eligible project. (Duquesne Light Statement No. 3, pp. 10-11; Duquesne Light Exhibit JCH-1, LTIP Appx. A, pp. 8-9, 12) Although the Company did not include any costs associated with the microgrid program in its LTIP or DSIC filings, Duquesne Light explained that it would file an amended LTIP to include a project description and proposed costs if the microgrid project at its Woods Run operations center were further developed. (Duquesne Light Statement No. 3-R, p. 2) Moreover, if the Company sought to recover those costs through the DSIC, it would make a separate filing seeking approval of the project at that time. (Duquesne Light Statement No. 3-R, p. 2) Duquesne Light also clarified that even in the absence of its Woods Run microgrid pilot project, it would need to repair, improve, or replace distribution assets in the geographical footprint of that potential project. (Duquesne Light Statement No. 4-RJ, p. 3)

I&E and OCA disputed the Company’s inclusion of the microgrid program as a DSIC-eligible project. (I&E Statement No. 1, pp. 3-4; OCA Statement No. 1, 5-6) Both parties alleged that there was a lack of information about the project, including estimated costs. (I&E Statement No. 1, pp. 3-4; OCA Statement No. 5-6) I&E also recommended that Duquesne Light withdraw its microgrid program from its DSIC Petition at this time or, alternatively, the Commission

should state that no costs associated with that program are DSIC-eligible. (I&E Statement No. 1, p. 4; I&E Statement No. 1-SR, pp. 3-4)

Under the Settlement, the Joint Petitioners acknowledge that Duquesne Light has not proposed a detailed microgrid program in its LTIP or proposed to include costs associated with that program in its DSIC. (Settlement ¶ 19) Moreover, the Company will not recover any microgrid costs in its DSIC until: (1) it makes a specific microgrid filing with the Commission, and (2) the Commission approves the recovery of microgrid costs in the DSIC. (Settlement ¶ 19) The Settlement neither reflects any agreement that the costs are DSIC-eligible nor prevents Duquesne Light from repairing, improving, or replacing distribution facilities at the Woods Run Facility and nearby locations under its LTIP and recovering those costs through the DSIC. (Settlement ¶ 19) Finally, if Duquesne Light ultimately makes a filing that proposes to recover microgrid costs through the DSIC, the Settlement reserves the parties' rights to oppose Duquesne Light's filing. (Settlement ¶ 19)

Based on the foregoing, the Settlement resolves the issues regarding the DSIC-recovery of costs associated with Duquesne Light's microgrid program in a fair and reasonable manner. The Settlement provides that microgrid costs are not recoverable under the LTIP as filed on April 15, 2016, without prejudice to the Company filing an amended LTIP. Therefore, the Joint Petitioners have addressed the recovery of microgrid costs as directed by the Commission in its *September 2016 Order*.

B. RIDERS INCLUDED IN THE DSIC CALCULATION

For purposes of calculating the DSIC charge, Duquesne Light included as distribution revenues the following: base distribution charges, Retail Market Enhancement Surcharge, Universal Service Surcharge, Energy Efficiency and Conservation Surcharge, and Smart Meter Charge. (Duquesne Light Statement No. 3, p. 6) Further, the Company explained that the State

Tax Adjustment Surcharge (“STAS”) would be excluded. (Duquesne Light Statement No. 3, p. 6) The Company proposed to include revenues from these Riders in the DSIC calculation because they are revenues for providing distribution service and the Commission’s model tariff specifically provides that revenues from distribution service clauses and riders is to be included in the DSIC calculation. *Final Implementation Order*, Docket No. M-2012-2293611, August 2, 2012. The OCA did not object to the Company’s inclusion or exclusion of these riders, as the riders included appeared to be distribution revenues. (OCA Statement No. 1, p. 6)

The Settlement provides that revenues from the Retail Market Enhancement Surcharge, Universal Service Surcharge, Energy Efficiency and Conservation Surcharge, and Smart Meter Charge will be included as distribution revenues when calculating the DSIC for purposes of calculating the DSIC rate cap. (Settlement ¶ 20) Furthermore, Duquesne Light will apply the DSIC to these riders. (Settlement ¶ 20) Moreover, the Settlement states that the STAS will be excluded from the DSIC calculation, and the DSIC will not be applied to the STAS. (Settlement ¶ 20)

As seen above, the Settlement fully resolves any issue concerning which riders are to be included as distribution revenues when calculating the DSIC. The Settlement removes any doubt concerning the riders that will be included in the Company’s DSIC calculation and directly addresses this issue as directed in the Commission’s *September 2016 Order*.

C. STATE AND FEDERAL TAX ADJUSTMENTS

The OCA raised a concern about the income tax deductions and credits reflected in Duquesne Light’s DSIC calculation. (OCA Statement No. 1, pp. 7-9) Specifically, the OCA cited Act 40 of 2016 and argued that accumulated deferred income taxes (“ADIT”) associated with DSIC-eligible plant should be included in the Company’s DSIC calculation. (OCA Statement No. 1, p. 8) The OCA further contended that the Company’s actual state income taxes

paid should be reflected in the state income tax rate that is used to calculate the pre-tax rate of return. (OCA Statement No. 1, p. 8)

In response, Duquesne Light argued that Act 40 only applied in base rate cases and not to the calculation of the DSIC. (Duquesne Light Statement No. 3-R, p. 4) The Company also observed that the Commission previously determined that OCA's proposed adjustments for ADIT and state income taxes should not be included in the DSIC rate calculation. (Duquesne Light Statement No. 3-R, p. 5) Moreover, ADIT and state income tax deductions are reflected in the DSIC earnings cap calculation and, therefore, are already included in the overall DSIC mechanism. (Duquesne Light Statement No. 3-R, p. 5) *See Petition of PPL Electric Utilities Corporation for Approval of a Distribution Service Charge*, Docket No. P-2012-2325034, Order entered April 9, 2015, pp. 36, 46.

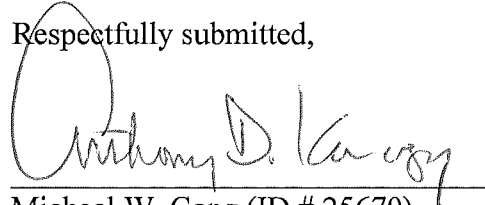
Under the Settlement, the Joint Petitioners recognize that issues regarding federal and state income tax deductions in calculating the DSIC charge are being further litigated before the Commission. (Settlement ¶ 21) As a result, the Joint Petitioners have agreed that in the Company's future DSIC filings, Duquesne Light will follow the Commission's rulings on whether to exclude or include ADIT and whether to adjust the state income tax rate to reflect actual state income taxes paid, unless modified on appeal. (Settlement ¶ 21)

Based on the foregoing, the Settlement resolves the issues raised by OCA concerning ADIT and state income taxes. The Settlement recognizes that the Commission will be addressing these issues in another proceeding and, therefore, advances judicial economy. Further, the Settlement ensures that Duquesne Light's DSIC filings will comply with the Commission's orders. Thus, the Settlement is in the public interest and should be approved without modification.

IV. CONCLUSION

Through cooperative efforts and the open exchange of information, the Joint Petitioners have arrived at a Settlement that resolves all issues in the proceeding in a fair and equitable manner. Therefore, Duquesne Light Company respectfully requests that the Administrative Law Judge and the Pennsylvania Public Utility Commission approve the Settlement without modification.

Respectfully submitted,



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Of Counsel:
Post & Schell, P.C.

Counsel for Duquesne Light Company

Date: March 1, 2017

Appendix B

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company For	:	
Approval of its Long-Term Infrastructure	:	Docket No. P-2016-2540046
Improvement Plan	:	
	:	
and	:	
	:	
Petition of Duquesne Light Company For	:	
Approval of a Distribution System	:	Docket No. P-2016-2540046
Improvement Charge	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT OF ALL ISSUES**

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor, Gina L. Miller, hereby respectfully submits that the terms and conditions of the foregoing *Joint Petition For Settlement* (“Joint Petition” or “Settlement”) are in the public interest and represent a fair, just, reasonable and equitable balance of the interests of Duquesne Light Company (“Duquesne Light”) and its customers. I&E has a statutory obligation to protect the public interest in rate proceedings and to enforce the Public Utility Code,¹ and I&E avers that the terms of this Settlement comport with those obligations. The parties to this Settlement

¹ 66 Pa. C.S. §§ 101 *et seq.*, and Commission regulations, 52 Pa. Code §§ 1.1 *et seq.* See *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011).

have conducted extensive formal and informal discovery and have participated in numerous settlement discussions. The extensive discussions and sharing of information has culminated in the submission of the attached Settlement. The request for approval of the *Joint Petition for Settlement of all Issues* is based on I&E's conclusion that the Settlement meets all the legal and regulatory standards necessary for approval. In support of this position, I&E respectfully submits the following:

I. INTRODUCTION

1. On April 15, 2016, the Duquesne Light filed with the Commission a Petition for Approval of its Long-Term Infrastructure Improvement Plan ("LTIIIP"). On May 5, 2016, the Office of Small Business Advocate ("OSBA") filed an Answer, Notice of Intervention, Public Statement, and Verification for Duquesne's LTIIIP. On May 13, 2016, both I&E and the Office of Consumer Advocate ("OCA") provided comments on Duquesne's LTIIIP, and Citizen Power, Inc. provided comments on May 16, 2016.

2. While comments regarding Duquesne Light's Petition for Approval of a LTIIIP were pending before the Commission, on May 26, 2016, Duquesne Light filed Petition for Approval of a Distribution System Improvement Charge ("DSIC") to become effective on October 1, 2016. In I&E's view, through its Petition for Approval of a DSIC, Duquesne Light appeared to propose, inter alia, to recover costs associated with a proposed Microgrid Program.

3. On June 15, 2016, both I&E and OCA filed Answers to Duquesne Light's Petition for Approval of a DSIC, averring that the Petition should be denied as filed. By

Opinion and Order dated September 15, 2016,² the Commission approved both Duquesne Light's Petition for Approval of a LTIP and Petition for Approval DSIC, subject to the terms of the Opinion and Order.

4. In accordance with the Opinion and Order, Duquesne Light's Petition for Approval of a DSIC was assigned to the Office of Administrative Law Judge ("OALJ") for the development of an evidentiary record, including a Recommended Decision. The OALJ assigned the proceeding to Administrative Law Judge ("ALJ") Katrina L. Dunderdale for investigation and scheduling of hearings to (1) consider whether the costs associated with Duquesne's Microgrid Program are recoverable through the DSIC and (2) to assess the inclusion of riders in distribution revenues when calculating the DSIC.³

5. A telephonic Prehearing Conference took place on October 17, 2016, and along with I&E, Duquesne Light, OCA, OSBA, and the Community Action Association of Pennsylvania,⁴ (collectively "the Parties"), participated.

6. During the Prehearing Conference, Duquesne Light's counsel clarified that while Duquesne Light was not making a definitive microgrid proposal at that time, it anticipated doing so by a filing to be submitted on March 31, 2017.⁵ In light of the information provided by Duquesne Light, I&E supported Duquesne Light's request to hold the proceeding in abeyance.⁶ The ALJ denied Duquesne Light's request and moved

² Docket No P-2016-2540046, *Opinion and Order* (entered on September 15, 2016).

³ Docket No P-2016-2540046, *Opinion and Order* at 40 (entered on September 15, 2016).

⁴ Community Action Association of Pennsylvania filed a Petition to Intervene on October 12, 2016, and it was granted by Order on October 19, 2016.

⁵ Tr. at 14.

⁶ Tr. at 21.

forward with the investigation ordered by the Commission.⁷ Accordingly, during the Prehearing Conference, a procedural schedule and the procedures applicable to this proceeding were established and subsequently memorialized in the Prehearing Order entered on October 19, 2016.

7. In accordance with the established procedural schedule, I&E, Duquesne Light, and OCA exchanged direct, rebuttal, surrebuttal, and rejoinder testimony. I&E introduced the following statements of testimony: I&E Statement No. 1: the direct testimony of Lisa A. Gumby; I&E Exhibit No. 1: the exhibit to accompany the direct testimony of Lisa A. Gumby; and I&E Statement No. 1-SR: the surrebuttal testimony of Lisa A. Gumby.

8. As the proceeding progressed, the Parties continued settlement discussions culminating in a global settlement, and the Parties notified the ALJ of the Settlement on January 19, 2017.

9. On January 24, 2017, an evidentiary hearing was held in this matter and the parties moved for the admission of their evidence into the record. I&E entered its above-referenced testimony into the record.⁸

10. On January 26, 2017, the ALJ issued an Order suspending the litigation schedule and directing the Parties to file a fully executed settlement agreement and statements in support of the settlement by March 1, 2017.

⁷ Tr. at 24.

⁸ Tr. at 47-49.

II. TERMS AND CONDITIONS OF THE SETTLEMENT

11. “The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest.”⁹ The Commission has recognized that a settlement “reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest.”¹⁰ I&E is of the opinion that the terms and conditions of the Joint Petition are in the public interest. Accordingly, for the reasons articulated below, I&E maintains that the proposed Settlement is in the public interest and requests that the following terms be approved by the ALJ and the Commission without modification:

A. MICROGRID PROPOSAL

As I&E noted above, at the outset of this proceeding, Duquesne Light’s Petition for Approval of a DSIC appeared to include a proposal to recover costs associated with a Microgrid Program. As I&E witness Gumby explained, Duquesne Light included a microgrid program and identified it as DSIC-eligible property in its LTIP dated April 15, 2016.¹¹ Additionally, in its direct testimony, Duquesne Light made reference to its “DSIC-eligible microgrid program,”¹² and that characterization elevated I&E’s concerns that Duquesne Light was seeking preapproval of microgrid costs in this proceeding.¹³

⁹ *Pa. PUC v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

¹⁰ *Pa. PUC v. C S Water and Sewer Associates*, 74 PA PUC 767, 771 (1991).

¹¹ I&E St. No. 1, p. 3.

¹² DLC Statement No. 2, pp. 5-7.

¹³ I&E St. No. 1-SR, p. 3.

In I&E's view, preapproval of microgrid costs in this proceeding would have been inappropriate. As witness Gumby pointed out:

[a]ssets included in a DSIC must be considered "eligible property" or property that is part of a distribution system (66 Pa. C.S. §1351, Definitions, Eligible Property, subparagraph (1)). Furthermore, DSIC recovery is limited to costs that are reasonably and prudently incurred.¹⁴

In this case, as of the time that it filed its LTIP and, later, its Petition for Approval of a DSIC, the Company has not finalized the design and development of its proposed Woods Run microgrid or of any other microgrid project. Accordingly, there are no details or cost information available to support the reasonableness or prudence of any microgrid program in this proceeding, making any characterization of DSIC-eligibility premature.¹⁵

During the course of this proceeding, Duquesne Light clarified that it was not making any claim for microgrid program costs in its current DSIC petition.¹⁶ The Settlement affirms Duquesne Light's position and makes it clear that Duquesne Light will not recover any microgrid costs in its DSIC unless and until: (1) Duquesne Light makes a specific microgrid filing with the Commission, if any, and (2) the Commission approves recovery of microgrid costs in the DSIC.¹⁷ Furthermore, while the Settlement does not reflect an agreement that microgrid costs are DSIC eligible, it does reflect the Parties' agreement that Duquesne Light is not prohibited from precluding Duquesne Light from repairing, improving or replacing its existing distribution facilities necessary for reliable

¹⁴ I&E St. No. 1, p. 3.

¹⁵ I&E St. No. 1, pp. 3-4.

¹⁶ DLC Statement No. 3-R, p. 3.

¹⁷ Joint Petition, ¶12.

grid operations at the Woods Run Facility and nearby locations under its approved LTIP and recovering such costs under the DSIC.¹⁸ Although this Settlement does not resolve the issue of whether the costs associated with Duquesne's microgrid program are recoverable through the DSIC, resolution of this issue is not possible in the confines of this proceeding since Duquesne Light clarifies that it is not yet making a claim to recover microgrid costs.

In I&E's view, these terms of the Settlement promote the public interest in several ways. First, Duquesne Light's agreement to not seek to recover of any microgrid costs unless and until it makes a specific filing with the Commission and the Commission approves the costs shields its ratepayers from paying unreasonable or imprudent costs. Additionally, this Settlement term respects the Public Utility Code because it will preserve Parties' ability to investigate whether any future microgrid costs constitute DSIC eligible property, as is required before Duquesne Light can seek recovery of those costs.¹⁹ Finally, the Settlement promotes Duquesne Light's use of DSIC funding to ensure and maintain adequate, efficient, safe, reliable and reasonable service²⁰ by not precluding it from repairing, improving or replacing its existing distribution facilities necessary for reliable grid operations. Accordingly, I&E opines that the Settlement promotes the public interest by ensuring that ratepayers do not pay unreasonable or imprudent costs, adhering to the Public Utility Code, and preserving Duquesne Light's ability to provide safe, reliable, and reasonable service.

¹⁸ Joint Petition, ¶19.

¹⁹ 66 Pa. C.S. § 1351.

²⁰ 66 Pa. C.S. § 1353.

B. INCLUSION OF RIDERS IN DISTRIBUTION REVENUES WHEN CALCULATING THE DSIC

Although I&E did not take a position on the inclusion of riders in distribution revenues for Duquesne Light's DSIC calculation, I&E notes that it supports the following Settlement term:

Duquesne Light will include the Retail Market Enhancement Surcharge, Universal Service Charge, Energy Efficiency & Conservation Surcharge and Smart Meter Charge in distribution revenues when calculating the DSIC for purposes of calculating the DSIC rate cap and will apply the DSIC to these Riders. The State Tax Adjustment Surcharge ("STAS") will be excluded from the DSIC calculation, and the DSIC will not be applied to the STAS.²¹

I&E's support for the above term is predicated on the fact the term comports with the Commission's model DSIC tariff.²² I&E avers that the public interest is served when utilities correctly calculate their DSICs and do so in a manner that is consistent with Act 11 of 2012.

C. TREATMENT OF FEDERAL AND STATE INCOME TAX DEDUCTIONS IN DSIC CALCULATION

Although I&E did not take a position on the treatment of federal and state income tax deductions in calculation of Duquesne Light's DSIC, I&E supports the following Settlement term:

The Parties recognize that issues raised by OCA regarding treatment of federal and state income tax deductions in calculating the DSIC charge are currently being litigated before the Commission in the First Energy Companies'

²¹ Joint Petition, ¶20.

²² *Implementation of Act 11 of 2012*, Docket No M-2012-2293611, *Final Implementation Order*, Appendix A (entered on August 2, 2012); OCA St. No. 1, p. 6.

consolidated DSIC proceeding at Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931, and P-2015-2508948. The Joint Petitioners agree that Duquesne Light will follow Commission Orders regarding whether to exclude or include ADIT in the DSIC calculation and whether or not to adjust the state income tax rate used to calculate DSIC revenue requirement to reflect actual state income taxes paid in future DSIC filings.²³

I&E supports this term because it serves the interests of conserving resources and of promoting order, certainty, and consistency of Commission decisions. As this term explicitly recognizes that the tax issues raised by OCA are currently the subject of another Commission proceeding that is already being litigated, it commits Duquesne Light to honoring the Commission Order(s) that result from the proceeding that is already underway. By adopting this commitment, the Settlement allows the Parties, the ALJ, and the Commission to avoid wasting time and resources to litigate and resolve an issue that would likely already be resolved in another proceeding by the end of this proceeding. Additionally, the term promotes order, certainty, and consistency by ensuring that the Parties agree to honor the ultimate Commission Order on these issues.

III. CONCLUSION

12. Based on I&E's analysis of the Settlement terms, acceptance of this proposed Joint Petition is in the public interest. Resolution of these provisions by settlement rather than continued litigation will avoid the additional time and expense involved in formally pursuing all issues in this proceeding, especially in recognition of the fact that the microgrid issue cannot be resolved in the instant proceeding at this time.

²³ Joint Petition, ¶21.

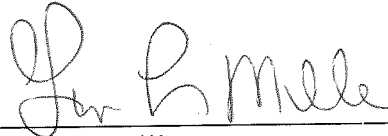
13. I&E further submits that acceptance of the foregoing Settlement Agreement will negate the need to engage in additional litigation including the preparation of multiple levels of testimony as well as Main Briefs, Reply Briefs, Exceptions and Reply Exception. The avoidance of further rate case expense by settlement of these provisions in this proceeding best serves the interests of the Company and its customers.

14. The Settlement Agreement is conditioned upon the Commission's approval of all terms and conditions contained therein and should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement, it may be withdrawn by I&E, or any of the signatories.

15. If the ALJ recommends that the Commission adopt the Settlement Agreement as proposed, I&E has agreed to waive the right to file Exceptions. However, I&E has not waived its rights to file Exceptions with respect to any modifications to the terms and conditions of the Settlement Agreement, or any additional matters, that may be proposed by the ALJ in her Recommended Decision. I&E also reserves the right to file Reply Exceptions to any Exceptions that may be filed by any active party to this proceeding

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the *Joint Petition For Settlement Of All Issues* as being in the public interest and respectfully requests that Administrative Law Judge Katrina L. Dunderdale recommend, and the Commission subsequently approve, the foregoing Settlement Agreement, including all terms and conditions contained therein.

Respectfully submitted,



Gina L. Miller
Prosecutor
PA Attorney ID # 313853

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
(717) 787-1976

Dated: March 1, 2017

Appendix C

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for	:	
Approval of a Long Term Infrastructure	:	
Improvement Plan and Distribution System	:	Docket No. P-2016-2540046
Improvement Charge	:	

OCA STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT OF ALL ISSUES

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Settlement of All Issues (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Pennsylvania Public Utility Commission (Commission). This request is based upon the OCA's conclusion that the proposed Settlement is in the public interest and is in the interest of the customers of Duquesne Light Company (Duquesne or Company).

I. INTRODUCTION

On April 15, 2016, Duquesne filed a Petition for Approval of an initial Long-Term Infrastructure Improvement Plan (LTIIIP). The OCA filed comments on the proposed LTIIIP on May 13, 2016. On May 26, 2016, Duquesne filed a Petition for approval of its initial Distribution System Improvement Charge (DSIC). The OCA filed an Answer to the Petition on June 15, 2016. The OCA raised two issues in its Answer: whether Duquesne should be permitted to recover costs related to its proposed microgrid program through the DSIC and whether certain riders should be included in "distribution revenue" for purposes of calculating the DSIC rate. On September 15, 2016, the Commission entered an Order approving the

Company's LTIP and DSIC petitions, subject to refund and referred both issues raised by the OCA to the Office of Administrative Law Judge for resolution.

The matter was assigned to Administrative Law Judge Katrina L. Dunderdale (ALJ). Consistent with the Scheduling Order dated October 19, 2016, the OCA served direct and surrebuttal testimony in support of its position. The parties also participated in discovery and settlement discussions and provided periodic status reports on those discussions to the ALJ. The Company, OCA and the Bureau of Investigation and Enforcement (I&E) reached a settlement agreement addressing the issues referred for hearings by the Commission's September 15, 2016 Order.¹ The Settlement also addresses a third issue raised by the OCA in its testimony, regarding the impact of Act 40, codified at 66 Pa. C.S. § 1301.1, on the calculation of federal and state income tax deductions in the DSIC calculation. The statute took effect on August 12, 2016 and states that it shall apply to all cases where the final order is entered after its effective date.

The OCA submits this Statement in Support to provide its views on why the proposed Settlement is in the public interest.

II. TERMS AND CONDITIONS OF JOINT PETITION FOR SETTLEMENT

The following terms of the proposed Settlement directly address the OCA's concerns raised in its Answer and in response to Act 40:

Settlement ¶19: Duquesne's Microgrid Program Proposal

In its proposed LTIP, Duquesne indicated its intent to build a microgrid at its Wood Run operations campus. LTIP, App. A at 28-29. The Company did not provide any detailed

¹ The Office of Small Business Advocate and Community Action Association of Pennsylvania do not oppose the Settlement.

information regarding the program including, *inter alia*, a schedule, projected expenditures, or categories of plant investment. See 52 Pa. Code §121.3(a). As a result, it is not possible to determine whether the investment is eligible for DSIC recovery. OCA St. 1 at 5-6. The Settlement clarifies that Duquesne will not recover any microgrid costs in its DSIC unless and until the Company makes a specific microgrid filing with the Commission, if any, and the Commission approves recovery of microgrid costs in the DSIC. This is consistent with the Company's rebuttal testimony, where it stated its intent:

Duquesne Light identified a potential microgrid project in its LTIIP simply to notify parties that it was considering a microgrid project. Duquesne Light did not request to include microgrid costs in the LTIIP or DSIC at this time and advised parties that it would file an amended LTIIP seeking Commission approval to include a microgrid project when more detail became available. Duquesne Light will not recover microgrid costs in its DSIC absent Commission approval of a subsequent or amended LTIIP and DSIC filing, if any.

Duquesne St. 3R at 3. The Settlement preserves the OCA's right to oppose such future filing, by affirming that the Settlement does not reflect any agreement that the microgrid costs are DSIC eligible.

Settlement ¶20: Inclusion of Rider Revenues in the DSIC Calculation

In its filing, the Company did not specify which riders were proposed to be included and excluded for purposes of calculating the DSIC rate. The Settlement specifies which riders will be included and, with that information, confirmed that only revenues derived from distribution service will be included in the DSIC calculation. See OCA St. 1 at 6. This clarification resolves the OCA's concern.

Settlement ¶21: Federal and State Income Tax Deductions Generated by DSIC Investment

Act 40 took effect on August 11, 2016. 66 Pa. C.S. § 1301.1. The statute provides:


If an expense or investment is allowed to be included in a public utility's rates for ratemaking purposes, the related income tax deductions and credits shall also be included in the computation of current or deferred income tax expense to reduce rates.

Id. (emphasis added). Because a final order in this proceeding will be entered after the effective date of Act 40, the OCA recommended that federal and state income tax deductions generated by DSIC investment should be reflected in Duquesne's DSIC calculations. OCA St. 1 at 7-9. Duquesne opposed the OCA's recommendation. Duquesne St. 3R at 4-6. As noted in the Settlement, the impact of Act 40 on the treatment of federal and state income tax deductions in the DSIC calculation has been raised in the First Energy Companies' consolidated DSIC proceeding at Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931, and P-2015-2508948. Rather than litigate the issue again here, the Settlement provides that Duquesne will follow the Commission's directives regarding the effect of Act 40 on the DSIC calculation. The OCA submits that it is in the interest of all parties, the Commission and the public to reduce or avoid litigation of this legal question. Thus, OCA submits that Paragraph 21 of the Settlement should be approved.

III. CONCLUSION

The Settlement effectively resolves the issues that the Office of Consumer Advocate raised and considered in response to the initial DSIC Petition filed by Duquesne Light Company. For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement are in the public interest and should be approved.

Respectfully Submitted,


Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. #83487
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Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: March 1, 2017

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Appendix D



COMMONWEALTH OF PENNSYLVANIA

March 1, 2017

The Honorable Katrina L. Dunderdale
Administrative Law Judge
Piatt Place
Suite 220
301 5th Avenue
Pittsburgh, PA 15222

**Re: Petition of Duquesne Light Company for Approval of its
Long-Term Infrastructure Improvement Plan; Petition of Duquesne Light
Company for Approval of a Distribution System Improvement Charge
Docket No. P-2016-2540046**

Dear Judge Dunderdale:

Please be advised that the Office of Small Business Advocate ("OSBA") is a party to the above referenced proceeding. The OSBA has reviewed the terms and conditions of the Joint Petition for Settlement and does not oppose the Settlement as filed.

As evidenced by the enclosed Certificate of Service, all parties will be served, as indicated. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon E. Webb".

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

cc: Brian Kalcic

Appendix E

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March 1, 2017

via Electronic Mail

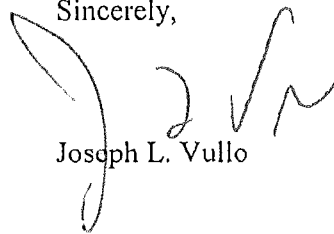
Anthony D. Kanagy, Esquire
Post & Schell, P.C.
17 North Second Street
12th floor
Harrisburg, PA 17101

**Re: Petitions of Duquesne Light Company for Approval of its Long-Term
Infrastructure Improvement Plan and Distribution System
Improvement Charge
No: P-2016-2540046**

Dear Mr. Kanagy:

On behalf of the Community Action Association of Pennsylvania I am writing to advise that CAAP does not object to the Joint Petition for Settlement of All Issues in the above matter.

Sincerely,



Joseph L. Vullo

JLV/jar