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August 17, 2020

**VIA EFILING**

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

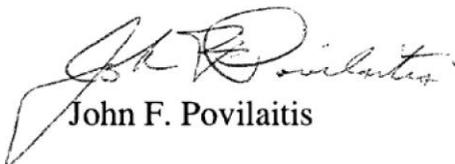
Re: *NetSpeed LLC v. Duquesne Light Company*;  
Docket No. C-2020-3020212

Dear Secretary Chiavetta:

Please find the enclosed Motion of NetSpeed LLC to Compel Sufficient Interrogatory Responses and Modify Litigation Schedule as Sanction in the above-captioned proceeding.

Copies have been served as indicated in the attached Certificate of Service.

Sincerely,



John F. Povilaitis

JFP/tlg

Enclosure

cc: Certificate of Service  
The Honorable Steven K. Haas

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judge  
Steven K. Haas

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NetSpeed LLC	:		
	Complainant,	:	
	:	:	
v.	:	Docket No. C-2020-3020212	
	:	:	
Duquesne Light Company	:		
	Respondent.	:	

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**NOTICE TO PLEAD**

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TO:     Brett Heather Freedson, Esquire  
          Lauren M. Burge, Esquire  
          Eckert Seamans Cherin & Mellott, LLC  
          U.S. Steel Tower – 44<sup>th</sup> Floor  
          600 Grant Street  
          Pittsburgh, PA 15219

Pursuant to the Prehearing Order in this case, you are hereby notified to file a written response to the enclosed Motion to Compel Sufficient Interrogatory Responses and Modify Litigation Schedule as Sanction (“Motion”) within three (3) calendar days from service of this Notice, or by such other due date established by the Presiding Officer. If you do not file a written response denying the enclosed Motion, the Administrative Law Judge may rule on this Motion without further input.

**File with:**

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

**With a copy to:**

John F. Povilaitis  
Alan M. Seltzer  
Buchanan Ingersoll & Rooney, PC  
409 North Second Street, Suite 500  
Harrisburg, PA 17101

Dated: August 17, 2020

s/John F. Povilaitis  
John F. Povilaitis, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NetSpeed LLC	:		
	Complainant,	:	
	:	:	
v.	:	Docket No. C-2020-3020212	
	:	:	
Duquesne Light Company	:		
	Respondent.	:	

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**MOTION OF NETSPEED LLC TO COMPEL SUFFICIENT INTERROGATORY  
RESPONSES AND MODIFY LITIGATION SCHEDULE AS SANCTION**

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**TO ADMINISTRATIVE LAW JUDGE STEVEN HAAS:**

NetSpeed LLC ("NetSpeed" or the "Company") hereby files this Motion to Compel Sufficient Interrogatory Responses and Modify Litigation Schedule as Sanction ("Motion") pursuant to the provisions of 52 Pa. Code §§ 5.103, 5.371 and 5.372 of the Pennsylvania Public Utility Commission's ("PaPUC" or "Commission"), along with a request for an immediate conference call with the presiding Administrative Law Judge ("ALJ") and Duquesne Light Company ("Duquesne Light") to address the issues and relief requested in this Motion. In support thereof, NetSpeed states as follows:

**I. Introduction**

1. This Motion seeks an order from the ALJ (i) directing Duquesne Light to provide complete and sufficient interrogatory responses to NetSpeed, including alleged confidential information; (ii) modify the litigation schedule previously established by the ALJ in this proceeding to, among other things, make the discovery process in this proceeding just; and (iii) grant such other relief as the ALJ deems appropriate.

2. NetSpeed is currently scheduled to submit its prepared written direct testimony on Monday, August 17, 2020. In order to prepare, complete and submit its direct testimony on August 17, 2020, NetSpeed propounded Interrogatories and Requests for Production of Documents – Set I (collectively, “Interrogatories”) on Duquesne Light, with full and complete answers due on Friday, August 14, 2020. While Duquesne supplied “answers” to the Interrogatories on August 14, 2020 in accordance with the litigation schedule established by the ALJ in an order dated July 20, 2020 (“Scheduling Order”), it withheld and did not provide to NetSpeed relevant and responsive documents to certain of the Interrogatories, claiming they were confidential. Rather than advise NetSpeed in advance that certain allegedly confidential documents were not being provided in response to the Interrogatories and offer to act as if a protective order were in place (as required by applicable Commission regulations), Duquesne did nothing, leaving NetSpeed to discover this serious omission on Friday, August 15, 2020, the same day it received the “answers.”

3. Duquesne Light’s conduct is particularly egregious and problematic because, on the same day (i.e., Friday, August 15, 2020) Duquesne Light was withholding allegedly confidential information responsive to the Interrogatories, NetSpeed and Duquesne Light finalized and NetSpeed filed with the Commission and ALJ a Joint Motion for Protective Order (along with a form of Protective Order) (collectively, “Protective Order”)<sup>1</sup> to address NetSpeed’s claim that certain confidential information in its possession responsive to Duquesne Light’s separate interrogatories due to be answered on August 19, 2020, needed special confidential treatment. But rather than advising NetSpeed that its “answers” that were being provided to

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<sup>1</sup> NetSpeed recognizes and acknowledges that the ALJ has not yet had an opportunity to review and issue the Protective Order. Without in any way limiting the ALJ’s review and possible modification to the Protective Order submitted by the parties, NetSpeed assumes for purposes of this Motion that the ALJ will enter the Protective Order without material modification from the one jointly submitted by NetSpeed and Duquesne Light.

NetSpeed contemporaneously with the filing of the Protective Order could and should be treated consistent with that order, Duquesne Light did nothing. As noted herein, Duquesne's conduct has severely prejudiced NetSpeed's ability to timely and fully complete its testimony and therefore has jeopardized the litigation schedule set forth in the Scheduling Order.

4. Prophylactic measures are clearly in order. In light of this situation, directly caused by Duquesne Light's conduct and omission, NetSpeed is not able to fully complete its direct testimony and requests that (i) Duquesne Light be directed to provide the allegedly confidential documents responsive to certain of the Interrogatories consistent with the provisions in the Protective Order; (ii) NetSpeed and Duquesne Light be relieved of filing their direct testimony on Monday, August 17, 2020 as currently required under the Scheduling Order; (iii) the ALJ, NetSpeed and Duquesne Light establish a new litigation schedule that allows NetSpeed the ability to review the material that has been withheld by Duquesne Light and reflect that information in its written direct testimony and revise the litigation schedule accordingly as an appropriate sanction; and (iv) the ALJ grant NetSpeed such other relief as warranted given Duquesne's Light's conduct and omissions.

5. NetSpeed is fully cognizant of the Commission's regulations at 52 Pa. Code Chapter 77 that require pole attachment disputes like the one at issue in this proceeding to be resolved up to a maximum period of 270 days from the filing of the formal complaint. 52 Pa. Code § 77.5(d). The Company submits that good cause exists for a waiver of that regulation. NetSpeed notes that under federal law, it is possible for such state pole attachment complaints to be resolved up to a maximum period of 360 days after the filing of such complaint. 47 U.S.C. § 224(c)(3)(B)(ii).

6. Because this is one of the first pole attachment cases to reach litigation since the Commission has assumed jurisdiction over pole attachment disputes, it is particularly important that the parties and ultimately the ALJ and Commission have available a clear and complete record to decide this case. Given the absence of information relevant to NetSpeed's case in chief as a result of Duquesne's unilateral determination of what it claims to be confidential information, it is reasonable and prudent to develop a new, more realistic litigation schedule that reflects the ability of the parties to properly access and utilize all relevant information in their evidentiary presentations. That can only result by modifying the Scheduling Order as requested in this Motion.

## **II. Procedural History and Background of Dispute**

7. On June 2, 2020, NetSpeed filed a Pole Attachment Complaint ("Complaint") against Duquesne Light seeking relief with respect to certain DLC pole attachment permitting practices.

8. On July 2, 2020, Duquesne Light filed an Answer and New Matter to the Complaint.

9. On July 8, 2020, NetSpeed submitted a letter to the Commission requesting that the Pole Attachment Agreement attached to the Complaint as confidential document.

10. On July 9, 2020, a Notice was issued scheduling an initial prehearing conference for July 20, 2020.

11. On July 17, 2020, NetSpeed filed its Answer to Duquesne Light's New Matter.

12. A prehearing conference was held on July 20, 2020.

13. On July 20, 2020, the ALJ issued the Scheduling Order, which established a litigation schedule for the proceeding and modified certain of the Commission's otherwise applicable discovery rules.

14. NetSpeed and Duquesne Light are currently engaging in active discovery and mediation in this proceeding.

15. In accordance with the Scheduling Order, Duquesne Light served "answers" to the Interrogatories on August 14, 2020. However, it withheld and did not provide to NetSpeed relevant and responsive documents to certain of the Interrogatories, claiming they were confidential.

16. Rather than advise NetSpeed in advance that certain allegedly confidential documents were not being provided in response to the Interrogatories and offer to act as if a Protective Order were in place, Duquesne did nothing, leaving NetSpeed to discover this fatal omission on Friday, August 15, 2020, the same day it received the "answers."

17. Duquesne's conduct was both unreasonable and unlawful.

18. Without the ability to review and evaluate the documents that have been withheld as confidential, NetSpeed is unable to fully complete and file its written direct testimony on August 17, 2020 as currently required by the Scheduling Order.

### **III. Argument**

#### **A. Applicable Legal Standards**

19. The Commission's regulations at 52 Pa. Code § 5.103 allow parties to Commission proceedings to file motions for relief desired. 52 Pa. Code § 5.103(a). Such motions may be made at any time. 52 Pa. Code § 5.103(b). Pursuant to 52 Pa. Code ¶ 5.365(c)(4), a party may not refuse to provide information it reasonably believes to be

proprietary if the party seeking the information agrees to treat the information as if it were covered by a protective order until the presiding officer issues a protective order. Further, Commission regulations provide that a party file a motion for sanctions and seek relief if a party fails to “file sufficient answers [to discovery].” 52 Pa. Code §§ 5.371-5.372 (Sanctions-general, Sanctions-types). And, in connection with any motion filed under 52 Pa. Code § 5.371, the ALJ may, among other things, enter an order with regard to the failure to make discovery as is just.” 52 Pa. Code § 5.372.

**B. Duquesne Light Improperly and Unlawfully Withheld from Discovery Allegedly Confidential Information**

20. This Motion is being filed under exigent circumstances since the facts (i.e., the withholding of relevant information by Duquesne Light) were not known or knowable by NetSpeed until Friday, August 14, 2020 when it received and reviewed Duquesne Light’s answers to the Interrogatories.

21. Upon realizing that certain information responsive to the Interrogatories was being withheld, counsel for NetSpeed inquired of the situation via email with Duquesne Light’s counsel as follows:

Brett:

In reviewing the DLC answers to NetSpeed’s Set I Interrogatories, it is clear that DLC is claiming confidentiality for information responsive to our requests. Under the PaPUC’s rules, we believe DLC should have come to us before submitting its “answers” indicating the information was not being provided because of confidentiality claims and offer to provide us the information as if a Protective Order was in place. Because this was not done and NetSpeed has not received documents relevant to the case, our ability to file complete testimony on Monday may be compromised. Before taking further action, we wanted to advise you of the situation as we see it and get DLC’s position.

Please advise immediately since this is a time critical matter and NetSpeed is evaluating its options.

Alan

22. Duquesne Light's counsel responded via email as follows:

Alan and John --

The confidential materials referred to in your note impacts only four of the 41 discovery requests to which DLC responded to today, and despite the references to confidential materials, each of these requests received complete responses. The information to which you refer is proprietary and commercially sensitive information of third parties that are (i) not parties to this case, and (ii) competitors or potential competitors of NetSpeed. Even under the terms of the PO that we agreed to and filed to jointly today, these materials are exempt from disclosure. DLC would not oppose an opportunity for NetSpeed to supplement its direct testimony with respect to the very limited amount of confidential information that is covered by these four requests, should the ALJ grant a motion to compel.

Brett

23. Duquesne Light's email response references the Protective Order (by the initials "PO") that was filed with the Commission and the ALJ earlier in the day, but argues that it is somehow inapplicable to the confidential information withheld. It then unilaterally asserts that the admittedly responsive and relevant material sought by NetSpeed in certain of the Interrogatories is confidential and is not being provided. It further suggests, again unilaterally and without any basis that NetSpeed can verify, that the confidential information is of a "very limited amount."

24. What Duquesne Light fails to acknowledge in this email exchange on a Friday evening is that the Commission's regulations specifically deal with how to handle alleged confidential information before the effectiveness of a protective *order*:

(4) Prior to the issuance of a protective order, a party may not refuse to provide information which the party reasonably believes to be proprietary to a party who agrees to treat the information as if it were covered by a protective order until the presiding officer or

the Commission issues the order or determines that issuance of the order would not be appropriate. The party claiming the privilege shall file a petition for protective order under subsection (a) within 14 days of the date the request for information was received.

52 Pa. Code § 5.365(c)(4).

25. This regulation first requires the answering party (i.e., Duquesne Light) to advise the receiving party (i.e., NetSpeed) of the claimed confidential information and allow NetSpeed the opportunity to agree it would treat the allegedly proprietary information “as if it were covered by a protective order.” Duquesne Light provided NetSpeed no such opportunity, instead unilaterally deciding that the confidential information would be withheld and was not covered by the filed Protective Order. Since Duquesne Light did not previously indicate it needed protection for some of its interrogatory responses, there was no prior discussion between the parties whatsoever on this critical issue. Instead, Duquesne Light left them for a Friday afternoon before the following Monday when NetSpeed’s written direct testimony is due.

26. Duquesne Light’s email attempts to suggest that neither the Protective Order nor the provisions of 52 Pa. Code § 5.365(c)(4) apply because the alleged confidential information is claimed to be information of third parties and subject to third party agreements preventing its dissemination. But Duquesne Light ignores that confidential or proprietary information under 52 Pa. Code § 5.365(c)(4) is not defined or limited in that manner. And, Duquesne has again unilaterally asserted these facts about the alleged confidential information in five (5) interrogatory responses without NetSpeed’s ability to verify those assertions.

27. Commission regulations make it clear that a party who believes information being sought from it in discovery is proprietary must ask the propounding party to treat the information sought as if it is covered by a protective order until such order is entered in the case. And the party claiming information is proprietary must seek a protective order within fourteen (14) days

of the date the request for information was received. It was NetSpeed's communication to Duquesne that it was seeking in discovery information NetSpeed believed to be proprietary that led to the Parties filing a mutually agreed to Motion for Protective Order on August 14, 2020 in this proceeding. The party claiming privilege is not permitted to simply state in their discovery responses that responsive information is confidential and fail to provide it, as Duquesne has done in this case.

28. The Interrogatories containing alleged confidential information are Nos. 5, 6, 8, 19 and 26. These questions relate to major issues NetSpeed has raised in its Complaint including service line drops, boxing of poles and the fees DLC charges for its required services and concerns expressed by pole attachers to DLC's requirements. Those interrogatories and Duquesne's response and claim of confidentiality are set forth in Attachment A to this Motion.

29. Despite Duquesne Light's claim that the confidential information is proprietary information of third parties and is subject to third party agreements, Duquesne Light overlooks that the information was used by Duquesne Light in making decisions relating to its pole attachment protocols and pricing and, as such, that information is extremely relevant to the issues raised in the Complaint.

30. And, most importantly, the fact that alleged confidential information is related to third parties and/or subject to third party agreements that allegedly prevent its disclosure is not dispositive of the status of the information as confidential and, as such, it must be handled in accordance with the terms of the Protective Order.

31. The Protective Order defines two types of "Proprietary Information, i.e., "Confidential Information" and "Highly Confidential." Neither type of Confidential Information is defined or determined by what a third party says about the information or any claimed third

party agreements. Rather, under the Protective Order, the producing party is required to declare what it believes to fall into either category of “Confidential Information.” Thereafter, the conditions under which the receiving party (here NetSpeed) may have access to that material are specifically spelled out in that order. There is nothing in the proposed Protective Order that allows a producing party to do what Duquesne Light has done here – i.e., claim that the alleged confidential information is subject to some third party’s restriction that equates to an absolute bar to providing the information under the terms of the Protective Order. It is important to recall that the information in question is relevant to the Complaint, has not been objected to by Duquesne on that or any other basis and is information upon which Duquesne used for its own purposes in making decisions related to its pole attachment practices and rates.

32. The fact that the alleged confidential information is supposedly subject to third party agreements – none of which NetSpeed has seen for verification purposes – cannot bar access to that information in accordance with the terms of the Protective Order and in the context of a bona fide legal proceeding like this one. Indeed, it is for this reason many non-disclosure agreements have a recognized exception for information that is compelled to be provided as part of a court order or similar judicial process. \*\*\*BEGIN CONFIDENTIAL INFORMATION\*\*\*

[REDACTED]

[REDACTED]<sup>2</sup> \*\*\*END CONFIDENTIAL INFORMATION\*\*\*

33. If its attempt to unilaterally withhold alleged confidential information that is relevant to the Complaint, not otherwise subject to objection and without regard to the terms of

<sup>2</sup>BEGIN CONFIDENTIAL INFORMATION [REDACTED]

CONFIDENTIAL INFORMATION

END

the Protective Order, is allowed to stand, Duquesne Light would elevate confidential information to a higher degree of protection than that afforded to attorney client and other privileged material which, in PaPUC proceedings, is often provided to the propounding party via a privilege log and with redacted material. *See Pa.P.U.C., et al. v. Pa. American Water Company*, Docket No. R-2011-2232243 et al., *Order of ALJ Angela T. Jones and ALJ Eranda Vero* (July 21, 2011) (“OCA avers that an appropriate objection would identify the document or workpaper in question, specifically describe the applicable privilege, and provide the reasons why the privilege applied to that document or workpaper.”); *Order Regarding Laurel’s Motion to Compel PESRM to Provide Responses to Laurel Set I Discovery Request*, *Order of ALJ Eranda Vero* (May 5, 2017). It is incongruous that material provided via one of the most sacrosanct privileges known at common law would receive less protection than Duquesne Light’s claimed confidential information in this proceeding.

### **C. The Scheduling Order Needs to Be Modified**

34. For the reasons specified above, including Duquesne Light’s conduct and omissions, and the looming deadline for the filing of NetSpeed’s direct testimony on August 17, 2020, justice requires the establishment of a new litigation schedule that affords NetSpeed access to the claimed confidential information under the terms of the Protective Order and in sufficient time to address that material in its direct testimony. Duquesne Light’s email offer to acquiesce to NetSpeed being allowed to supplement its Direct Testimony if NetSpeed files and prevails on a Motion to Compel is neither adequate nor sufficient. NetSpeed should not be required to present a position on issues in the case without complete information and then potentially submit different and possibly disjointed testimony on the same issues. Moreover, such supplemental testimony would not be due until an ALJ ruling is obtained, and if it is favorable to NetSpeed,

there would need to be at least a week for NetSpeed to review the information provided by Duquesne Light and finalize its testimony. Such a parallel testimony track to the original procedural schedule would render obsolete the hearing, briefing and decision dates of this case. The only practical and just remedy is to move the entire remaining procedural schedule forward so that appropriate intervals are maintained between testimony due dates, hearing dates, and briefing and decision dates, utilizing some of the additional time provided by statute and under waiver of the Commission's regulations.

35. NetSpeed is prepared to work with the ALJ and Duquesne Light to fashion a revised litigation schedule that meets the parties' needs and is consistent with the requirements of 52 Pa. Code § 77.5(d) and 47 U.S.C. § 224(c)(3)(B)(ii).

**D. Sanctions Must be Imposed on Duquesne Light**

36. Duquesne's Light's conduct with the respect to the Interrogatories is improper and as framed by the Commission's regulations, requires the imposition of sanctions.

37. As noted above, the Commission's regulations allow the ALJ to impose "sanctions" if a party fails to "file sufficient answers." 52 Pa Code § 5.371. That is precisely what Duquesne Light did here.

38. Among the sanctions an ALJ can direct is to "make discovery as is just." 52 Pa Code § 5.372(a)(4). At a minimum, that requires Duquesne Light to provide the allegedly confidential information to NetSpeed in accordance with the Protective Order and the establishment of a new litigation schedule to remediate the prejudice to NetSpeed in connection with filing complete direct testimony on August 17, 2020 per the current Scheduling Order.

**IV. Request for Relief**

WHEREFORE, for all of the reasons stated herein, NetSpeed LLC respectfully requests that Administrative Law Judge Steven Haas (i) grant this Motion in its entirety; (ii) direct Duquesne Light to provide all claimed confidential information responsive to Interrogatory Nos. 5, 6, 8, 19 and 26 to NetSpeed in accordance with the Protective Order; (iii) relieve NetSpeed and Duquesne Light of their obligation to serve written direct testimony on August 17, 2020 as currently required by the Scheduling Order; (iv) establish a revised litigation schedule in light of Duquesne Light's conduct and omissions relating to withheld information responsive to certain of the Interrogatories referenced above; and (v) grant NetSpeed such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

By: s/John F. Povilaitis

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*Counsel for NetSpeed LLC*

Dated: August 17, 2020

# Attachment A

**Response of DLC to the Interrogatories and Requests for  
Production of Documents of NetSpeed – Set I**

5. Please Identify and describe all written Communications advising of a concern or problem DLC has received in the last three (3) years from counterparties under its existing Pole Attachment Agreements with respect to rates, services, protocols, timing, inspections, etc. for attaching to DLC poles.

**Response:** As discussed by the parties' counsel, DLC's response to this request is limited in scope to written Communications related to (i) Communications Service Attachments (*i.e.*, service drops); (ii) boxed poles; and (iii) fees set forth in Exhibit A to DLC's TPA Guidelines.

DLC has received email communications from counterparties regarding boxing of poles, application invoices, application invoices, application status, and application violation concerns. As indicated in DLC's response to #1 above, the agreements executed by other entities that attach to DLC's poles pursuant to 47 U.S.C. § 224 are identical in all material respects to the Pole Attachment Agreement executed by DLC and NetSpeed, dated July 17, 2017. Each of those agreements contain provisions that prohibit DLC's disclosure of Confidential Information, which includes the content of any communications between DLC and individual attachers about their agreements, or their attachments to DLC's poles.

Responsible Witness: Robert J. Frantz, Manager, GIS & Third Party Attachments

**Response of DLC to the Interrogatories and Requests for  
Production of Documents of NetSpeed – Set I**

6. To the extent any concerns or problems identified in the response to No. 5 received a written response from DLC, please provide those responses.

**Response:** As discussed by the parties' counsel, DLC's response to this request is limited in scope to written Communications related to (i) Communications Service Attachments (*i.e.*, service drops); (ii) boxed poles; and (iii) fees set forth in Exhibit A to DLC's TPA Guidelines.

As indicated in DLC's response to #1 above, the agreements executed by other entities that attach to DLC's poles pursuant to 47 U.S.C. § 224 are identical in all material respects to the Pole Attachment Agreement executed by DLC and NetSpeed, dated July 17, 2017. Each of those agreements contain provisions that prohibit DLC's disclosure of Confidential Information, which includes the content of communications between DLC and individual attachers about their agreements, or their attachments to DLC's poles.

Responsible Witness: Robert J. Frantz, Manager, GIS & Third Party Attachments

**Response of DLC to the Interrogatories and Requests for  
Production of Documents of NetSpeed – Set I**

8. If the answer to No. 7 is yes, please Identify, describe and provide all data and information received in connection with the determination and evaluation.

**Response:** Communications with other utilities were through conferences, conference calls and/or closed sessions. At times we have received utility specifications or requirements documentation for their pole attachment programs. All documentation that DLC received was indicated by the utility that provided it to be “Confidential,” and therefore, DLC is not permitted to disclose it.

Responsible Witness: Robert J. Frantz, Manager, GIS & Third Party Attachments

**Response of DLC to the Interrogatories and Requests for  
Production of Documents of NetSpeed – Set I**

19. Please provide all Communications and Documents including, but not limited to, any requests for proposals, pricing for services, materials from interested parties, communications to interested parties, relating to DLC’s selection of the current third party contractor to manage DLC’s current Third Party Attachment Permitting Process.

**Response:** The bid process for this event included a Request for Information (RFI) which was issued on June 26<sup>th</sup>, 2018 to twenty (20) vendors to determine capabilities. The RFI closed on July 10<sup>th</sup>, 2018 with responses from thirteen (13) vendors. The thirteen vendors were invited to bid on the Request for Proposal (RFP) which was opened on July 20<sup>th</sup>, 2018.

A pre-bid meeting was held on July 25<sup>th</sup>, 2018 and questions from vendors were due by August 1<sup>st</sup>, 2018. The RFP bid closed on August 6<sup>th</sup>, 2018.

Of the 13 vendors invited for this bid event, 10 provided responses, with 2 declining to bid and 2 bidders (with the same parent company) combined bids.

On August 15<sup>th</sup>, 2018, DLC narrowed down the list of proposals to 4 vendors. Supplier presentations were scheduled from September 11<sup>th</sup>, 2018 through September 21<sup>st</sup>, 2018.

The criteria used to evaluate vendor responses are weighted and scored 1-5 and included:

Technical
The Bidder must understand the National Electric Code (NESC) and how to apply the code to TPA Attachments.
Did the Bidder address DLC Standards and how to best learn and apply them to the TPA Permitting Process.
Does the Bidder have experience in TPA/Joint Use Programs.
Does the Bidder have experience in Designing new fiber installations.
Does the Bidder have experience in Make-Ready Engineering.
Can the Bidder facilitate sudden increases in applications needing processed within FCC timeframes.
Does the Bidder address Data Collection Activities and Accuracy of this data.
Supplier Presentations
Safety
EMR (less than or equal to 1.0)
OSHA-Recordable Rate for the last 3 years (less than or equal to the most recent NAICS industry average)
OSHA Citations (less than 3 in the last 3 years)
Fatalities (over the last 5 years)
Commercial
Terms and Conditions
Insurance
Pricing
Per Pole

**Response of DLC to the Interrogatories and Requests for  
Production of Documents of NetSpeed – Set I**

Davey Resource Group had the highest overall score and was awarded the contract.

The content of the RFI/RFP responses submitted to DLC by third party bidders is considered by those bidders to be commercially sensitive and proprietary, and therefore, DLC is not permitted to disclose it. The non-disclosure of such information is critical to the veracity of DLC's competitive bidding process.

Responsible Witness: Robert J. Frantz, Manager, GIS & Third Party Attachments



# Construction Specification

Revision	Issue Date	Record or Changes
0	7-14-17	Initial Issue
1	1-05-18	Added wording on gloving, section 1

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## 1 Construction Drawings, Specifications and Procedures

- 1.1. Work shall be performed in accordance with the latest edition of the following requirements, codes, standards, drawings, specifications, and procedures, except where local regulations or specification requirements are more stringent, in which case the more stringent requirements must govern, unless otherwise directed in writing by Duquesne Light Company (DLC). Should the Bidder identify a conflict between requirements, Bidder shall notify DLC in writing via a Request for Information (RFI) submittal within two (2) business days.

29 CFR 1926, "Safety and Health Regulations for Construction"

29 CFR 1910.269, "Electric Power Generation, Transmission, and Distribution"

National Electric Safety Code® (NESC®) – 2017 (IEEE C2-2017)

City of Pittsburgh Department of Public Works, "Right of Way Procedures Manual"

Pennsylvania Department of Transportation, "Temporary Traffic Control Guidelines," (PUB 213)

DLC Extra Work Authorization (EWA) process.

DLC Erosion and Sedimentation Control Plan (E&S Plan)

DLC Drawings specific to the scope of work

DLC Non Construction Specifications

Additionally, a list of documents applicable to a specific project shall be supplied during the RFP event.

- 1.2. Duquesne Light Company Construction Standards are posted to a FTP site for access by external vendors.

Site: <ftp://ftp.duqlight.com/constructstds>

Username: ConstructStds2

Password: Y3sw3c@n

*\* Please paste the above link into your browser in order to access the site.*

- 1.3. The Vendor shall furnish the necessary supervision, labor, tools, transportation, construction equipment and facilities to perform the work in accordance with the drawings, specification and procedures.
- 1.4. All work performed on energized 23 kV (phase to phase) lines is to be performed with the use of appropriate hot sticks, in compliance with Minimum Approach Distances. The use of rubber gloves on energized lines is restricted to 4 kV (phase to phase) and lower voltages. Gloving of 23 kV lines is not allowed at this time. The Vendor's bid must be priced accordingly.
- 1.5. All communication transfers and double pole removal will be done by a third party contractor unless otherwise stated in the bid's scope of work.

## *2 Project Specific Scope of Work*

- 2.1. Written description of the specific scope of work shall be supplied by DLC.
- 2.2. Any work not covered in the drawings must be handled by DLC's Extra Work Authorization (EWA) process, prior to any such work being executed.
- 2.3. The SOW description shall establish the level of detail supporting the RFP pricing table, attachment **15.9 Project Build-Up Table**, the schedule and invoice.

## *3 Construction Site Requirements*

- 3.1. The Vendor, their employees and Contractors shall properly conduct themselves at all times, keeping in mind the good customer relations which DLC maintains.
- 3.2. DLC's Construction Superintendents and/or authorized personnel as designated by DLC shall monitor the project.
- 3.3. The Vendor shall be responsible for printing any documents which are needed for the work.
- 3.4. The Vendor shall maintain an adequate file of up to date files of all Engineering drawings, specifications, manufacturer's prints and other contract documents. The Vendor shall maintain a set of drawings for as-built mark ups and if required by the Project, one set including as-built mark ups which shall remain at the substation.
- 3.5. At the completion of the project, the Vendor shall return all drawings to DLC, including any copies.
- 3.6. The Vendor shall provide his own telephone and other site communications to meet their needs and shall pay all costs associated with such services.



- 3.7. The Vendor shall complete attachment **15.1 Vendor After Hour Contact Form** providing the name, cell phone number, and e-mail for their local construction superintendent for after hour security issues, emergencies and outage responses.
- 3.8. The Vendor shall provide all transportation, trash dumpsters, air compressors, welders, fuels, lubricants, hoses, piping and any other apparatus required for performance of his work.
- 3.9. If temporary electric power is required during construction, the Vendor shall be responsible to coordinate with DLC and submit a DLC service request at their own expense.
- 3.10. All temporary lighting required by law, code, or ordinance necessary for the protections of the public and workmen or for the proper execution and inspection of the Vendors work shall be furnished, placed and maintained by the Vendor at their expense.
- 3.11. Water for construction use and drinking shall be furnished by the Vendor. The Vendor shall provide sanitary drinking water facility for his employees including coolers, ice, disposable cups and means of disposal.
- 3.12. The Vendor shall provide all heating equipment for the efficient execution of the work and to prevent freeze damage during construction. All heating equipment shall be provided with adequate safeguards.
- 3.13. The Vendor shall be responsible for policing his own work area and those of his Contractors and removing all trash, construction debris, demo equipment and material from the site daily or as directed by DLC. If the Vendor is vacant from the site for more than 24 hours, all loose materials are to be secured. Vendor is responsible for providing their own trash dumpsters and service and to prevent accumulation of wastes.
- 3.14. The Vendor shall furnish and maintain sanitary facilities for the use of his onsite personnel.
- 3.15. The Vendor shall restore the site back to its original condition, including repairing any concrete or blacktop damage that is a direct result of the Vendor's construction.
- 3.16. The Vendor shall provide and maintain adequate site security and fire protection equipment in each area for which he is responsible including temporary office space, tool rooms and storage areas he uses.
- 3.17. All Vendors, their employees and Contractors shall be identified by clothing and hard hats bearing their companies name and company logo.
- 3.18. Weapons, firearms, explosives, incendiary devices, alcoholic beverages, illegal drugs and contraband are not permitted on the project and DLC property.

#### *4 Work Force Requirements*

- 4.1. Premium Time work within the scope of the project shall be deemed to be included in the pricing and is the responsibility of the Vendor, with no claims for Premium Time recognized as legitimate price change.
- 4.2. Vendor shall notify the Project Manager in writing and in advance of any of the Vendor's personnel or Contractor's personnel working or having cause to be on the project and DLC property beyond scheduled normal working hours.
- 4.3. Normal work week shall be set as a four (4) day work week from Monday to Thursday and ten (10) hour work days. The Vendor shall follow this work week unless prior written approval is received from the Project Manager.
- 4.4. The Vendor shall bear all costs necessary to recover delay(s) attributable to Vendor.
- 4.5. Prior to commencement of any out-of-scope work or field changes, the Vendor shall submit written advance notice to the Project Manager per the DLC Extra Work Authorization (EWA) process.

## 5 *Outages, PA One Call and Clearances*

- 5.1. Vendor shall be responsible to schedule all work related outages in correlation with DLC's outage sequence and Bid Construction Schedule. The Vendor shall supply weekly updates of all anticipated outages, with the mind set of limiting the customer outages.
- 5.2. All outages shall be as short as possible and are to be discussed with the Construction Superintendent to agree on the appropriate amount of outage time.
- 5.3. During construction, Vendor shall notify the Construction Superintendent of required outage at a minimum of 15 business days in advance.
- 5.4. Vendor shall notify the Project Manager, in order to coordinate with DLC's Major Account Managers, prior to an outage of a major commercial customer location.
- 5.5. Vendor shall be responsible to notify all residential property owners, and/or occupants impacted by an outage by leaving DLC supplied door hangers at least 24 hours prior to the start of the outage.
- 5.6. Vendor shall be responsible to coordinate switching and/or tagging with the Construction Superintendent prior to any outages.
- 5.7. Vendor shall make all necessary provisions and do all Work required to prevent any interference with others operation or maintenance or services thereon, all in a manner satisfactory to DLC.
- 5.8. The Vendor is responsible for timely notification to adjacent utilities and submittal according to PA Act 172 of PA One Calls to support the construction schedule. One Calls are required prior to all ground penetrations. Vendor will provide DLC with any feedback and corresponding details of any conflicts from a One Call.

- 5.9. In cases where the Work would remove or alter One Call markings, the Vendor shall photograph the markings and area for DLC and Vendors mutual benefit before proceeding with the Work.

## 6 *Permits, Flaggers, Survey and Right of Way (ROW)*

- 6.1. DLC will obtain all permits including Governmental, State, City, County, Municipality, crossing and flaggers for railroads only.
- 6.2. If additional permits are needed, the Vendor shall submit a request for a permit to the Project Manager, at a minimum of 5 days in advance. (See attachment **15.2 City of Pittsburgh Traffic Obstruction Permit Request Form** and attachment **15.3 City of Pittsburgh Opening and Excavation Permit**).
- 6.3. Vendor shall supply all road flaggers and temporary traffic control.
- 6.4. Vendor shall be responsible for acquiring all hauling or shipping permits needed to complete the work.
- 6.5. All required surveying shall be performed by DLC and/or a representative as authorized by DLC.
- 6.6. If additional survey is needed, attachment **15.4 Survey Request Form** shall be submitted 5 days in advance by the Vendor.
- 6.7. DLC shall establish and maintain base lines and bench marks adjacent to the various sections of work. All such marks and stakes must be carefully preserved by Vendor, and in case of their unnecessary destruction by Vendor or any of its employees or Contractors, they will be replaced by DLC at Vendor's expense.
- 6.8. Vendor shall be responsible to ensure the base line stakes are intact, and if they are not, the vendor is to notify DLC to resurvey and restake.
- 6.9. Vendor's Work shall agree with all dimensions and tolerances as provided and approved by DLC.
- 6.10. The activities, men, material and vehicles of the Vendor are to be restricted to the area along the DLC established right-of-way (ROW), existing access roads or DLC owned property specifically approved for Vendor's use. Where access to the ROW is across property with an easement, the owner, tenant or occupant shall be notified of such egress to the ROW by DLC. Where access to the ROW is across private property, the owner, tenant or occupant shall be contacted to obtain permission for egress to the ROW. Such arrangements, including obtaining releases for damage, shall be made by DLC.
- 6.11. Where it is necessary to use access to right-of-way over private roads, yards, pastures and cultivated fields, DLC shall notify and obtain permission of property owner prior to the use of these routes. During the period of the Vendor's use of these access routes, they shall be maintained by the Vendor at his own expense. Upon completion of the project, all damage to property within the limits of the access routes caused by normal and necessary usage in connection with this work

- and excluding any damage caused by negligence of the Vendor shall be repaired at the direction and expense of the Vendor. Any repairs for which the Vendor shall expect reimbursement shall be made only upon receipt of written authorized approval by DLC.
- 6.12. Vendor shall keep fences and gates in sufficient state of repair as needed to provide a point of access. All fences, cut or damaged, shall be repaired.
  - 6.13. Vendor shall be made aware of any right-of-way special conditions and shall take extra care to follow DLC's instructions as to movements on these properties.
  - 6.14. In the use of the lands, drainage shall not be impaired on or off the right-of-way at any time. Obstruction of natural flow in waterways by stockpiling or storing materials, or by placement of equipment or supplies shall not be permitted. Collections of debris which prohibit or inhibit normal functioning of drainage facilities shall be removed.
  - 6.15. DLC's Vegetation Management group conducts routing maintenance for ROW areas by certified line contractor tree clearances teams. If the Vendor requires additional clearing of the ROW, at a minimum of 5 business days prior, the Vendor shall notify the Project Manager to coordinate with DLC's Vegetation Management group.
  - 6.16. Excess materials and trash shall be removed from right-of-way as operations are completed. Final cleanup to start immediately following the final operation.

## *7 Land, Access Roads and Environmental Protections*

- 7.1. Roads subject to interference by the Work shall be kept open, if at all possible. Vendor shall provide, erect and maintain, at its own expense, effective barricades on which shall be placed acceptable warning and/or detour signs at each side of any road obstruction caused by the operations of Vendor.
- 7.2. Where fences must be cut to allow access for the work, gates shall be installed except when specified by Project Manager. Brace posts must be installed at each fence cut to ensure that adjacent fence spans will not become slack. A wire fence must not be cut until it is secured to the brace post.
- 7.3. If any gates require a lock, the lock shall be a DLC supplied lock and double locked/daisy chained if using a Vendor's lock. All substation gates, or gates that allow access to electrical equipment, shall use a DLC red lock and double locking or daisy chaining is not permitted.
- 7.4. Access road construction may be required as a part of the work. Where specified, roads must be of the type, dimensions and grades shown on the drawings. When not specified, the roads shall be defined and staked by DLC. All materials and labor required for such work must be furnished by the Vendor, inclusive of spoil disposal.



- 7.5. Access roads shall be constructed such that surface water from the road does not drain across pole, structure site or public and/or private road surfaces.
- 7.6. Culvert pipes must be installed as shown on the drawings or as directed by the Project Manager. Each pipe must be of a type, diameter and length as specified and must be properly set, backfilled and tamped. All required labor and material must be provided by the Vendor.
- 7.7. The Vendor shall have a continuous cleanup program throughout construction. The Vendor shall restore the land that is crossed to its original condition. This restoration includes the removal of deep ruts and the disposal of foreign objects such as stumps, removed material, or chunks of concrete. It also includes smoothing and reseeding damaged vegetation areas with vegetation similar to the original, cleaning out gullies and restoring terraces. Roads existing prior to construction must be restored to equal or better than their original condition
- 7.8. Vendor shall use due care to minimize all construction damages. DLC will be responsible for construction damages to crops, furrows, lands or personal property within the right of way which DLC deems normal and reasonably necessary, provided Vendor has complied with specifications and Purchase Order provisions. Vendor shall pay for all other construction damages.
- 7.9. Vendor shall not leave holes open overnight. Open holes are to be properly covered and fenced, if required, to avoid property damage or injury to persons or livestock. All holes shall be filled, in the absence of a requirement, with native soils and machine tamped to surrounding grade.
- 7.10. The Vendor shall repair ruts before leaving the area. At the conclusion of each working day the site shall be left in a condition to prevent soil erosion due to a possible rainfall event.
- 7.11. Vendor shall protect public and private roads, and bridges which may be damaged by, interfered with, or given undue wear by reason of the work done under the Purchase Order, and shall repair or replace them if damaged, at their own expense, to the satisfaction of the governmental authorities or the owners thereof.
- 7.12. Vendor shall be responsible for the maintenance of existing roads, drainage ditches and construction easements, if any; from the date any work is begun on the job to the date of its final acceptance.
- 7.13. It is mandatory that the Vendor employ construction methods and techniques that will result in the least detrimental impact upon the environment and property owner.
- 7.14. Vendor shall install orange snow fence around, or to prevent access by another approved means to environmentally sensitive areas. All environmentally sensitive areas are restricted and shall be avoided by foot and vehicular traffic. If the fence is disturbed at any time, Vendor shall repair immediately.



- 7.15. Vendor shall install silt fences or straw bales as required or directed by DLC to protect the surrounding area from silt laden runoff due to construction of access roads, work areas and foundation construction.
- 7.16. During dry and windy weather conditions, watering trucks shall be used to lessen wind erosion and dusting problems on areas not surfaced with turf or crushed rock that are subject to wind erosion. With DLC's approval, the use of liquid or pellet chloride may be used in lieu of watering trucks.
- 7.17. The Vendor shall repair ruts before leaving the area. At the conclusion of each working day the site shall be left in a condition to prevent soil erosion due to a possible rainfall event.
- 7.18. Areas that are damaged by construction activities shall be returned to their original condition and resurfaced as specified or as directed at no extra cost to DLC.
- 7.19. Care should be taken to avoid oil or fuel spills and other pollution or hazardous substances. After containment and proper notification, areas polluted shall be cleaned and restored to their original condition at no extra cost to DLC. Vendor shall notify the Construction Superintendent and Project Manager immediately of such incidents occurring. If DLC determines a need to resolve the issue due to inaction on the part of the Vendor then the Vendor shall reimburse DLC for costs and indirect fees.
- 7.20. All painted steel shall be considered as being coated with lead based paint at some time in the past unless indicated by DLC.
- 7.21. All control cables shall be considered asbestos unless indicated by DLC.
- 7.22. If items or areas of possible archaeological interest are uncovered during construction, the Vendor shall stop work immediately and notify the Project Manager.



## 8 *Material, Specialty Equipment, Laydown Yard and Salvage*

- 8.1. DLC shall furnish required material and material scrap containers, unless otherwise specified. Material scrap is the property of DLC and is to be sorted as DLC identifies on the project. If the Vendor acquires any material, it must be approved by DLC and meet company standards, including any truck stock items.
- 8.2. The Vendor shall plan that all DLC supplied material is delivered before planned construction start or planned project phasing.
- 8.3. Vendor shall be responsible for conducting a material look ahead review at least one week in advance of material need for construction.
- 8.4. DLC shall provide direct shipment to designated facility or location.
- 8.5. Upon delivery, the Vendor shall receive, unload and examine all shipments and place in a designated area. The material shall be transported in such a manner as to prevent damage, including damage which might result from the intrusion of foreign matter or moisture from any source.
- 8.6. Vendor shall accept the custody, and the risk of loss from any cause, of all DLC furnished materials at the appropriate designated point of delivery. Vendor shall be charged at the replacement costs for any material and equipment lost or damaged.
- 8.7. Vendor shall report any shortage, discrepancies, or damaged material, in writing, to DLC within three (3) business days of receipt of material. If any damage is so encountered, the damaged material may be replaced by DLC, or it may be repaired by Vendor, if so directed by DLC.
- 8.8. Vendor shall identify and supply a pricing table for any specialty equipment and include in bid as necessary. Equipment shall be identified as specialty equipment if it is not commonly used by DLC. For example: specific size of reel pulling equipment for cable/wire.
- 8.9. Vendor shall include equipment and specialty equipment delivery updates during the regular meetings.
- 8.10. Failure of the Vendor furnished equipment or delays in arrival shall not be justification for an extension of project schedule.
- 8.11. DLC shall supply Vendor specification sheets to the Vendor for items that are not procured directly from DLC or are specialty items. The Vendor shall handle and take custody of any product per the requirements.
- 8.12. Vendor shall provide and use mats, dunnage, pallets, or other approved items on which the material shall be stored.
- 8.13. The Vendor shall notify the Construction Superintendent and Project Manager, for possible reclaim, of any excess material that is in reusable condition and properly labeled.

- 8.14. Excess material and trash shall be removed from the ROW as operations are completed. Final cleanup is to start immediately following the final operation and excess material that is to be returned to the DLC, unless otherwise directed by DLC.
- 8.15. During the performance of the project, the Vendor shall provide and maintain a laydown area and a suitable construction trailer for offices, change houses, warehouse and other uses for the Vendor.

## 9 Meetings

- 9.1. The Vendor is required to attend the meetings listed below and be prepared to discuss current construction issues.
  - **Initial kick off meeting** - Anticipate a two (2) hours meeting prior to mobilization to coordinate all team members. During this meeting, the schedule and procurement plan shall reviewed.
  - **Status review team meeting** – Anticipate ten (10) man hours per month for the duration of the project for these meetings. The team shall review the current construction progress, any new issues, risks, specialty equipment delivery dates and a two week look ahead. The final timing for this meeting will be discussed at the initial kickoff meeting.
  - **Field Walk Down Review** – Anticipate a four (4) hour site meeting. The Vendor is required to attend this field walk down review at the end of the project or phase. Any final action items shall be identified and will need to be completed within two (2) business weeks.
  - **Final closeout meeting** – Anticipate a two (2) hour office meeting and any final action items are completed.

## 10 Schedule Requirements

- 10.1. A bid construction schedule shall be provided by DLC at a Level 2 as part of the RFP in PDF format (XER format upon request).
- 10.2. A field walk down shall be planned at the beginning of the bid event but it is the responsibility of the Vendor to visit the site and ascertain the extent of the work required.
- 10.3. The Vendor shall supply a list of assumptions, including staffing, material, outages, third party requirements, schedule risks and weather allowances, as part of the RFP bid event package.

- 10.4. The Vendor and DLC shall further develop the bid construction schedule to a Level 3, at a minimum, including all of the main tasks, logic relationships and outages that are part of the scope of work after award.
- 10.5. DLC shall provide and maintain the project construction schedule in Primavera P6 format.
- 10.6. The Level 3 project construction schedule will be reviewed, agreed to and baselined within two weeks following the construction kick off meeting.
- 10.7. DLC shall analyze performance measures and manage any cost or schedule changes per DLC's Integrated Change Management Procedures.
- 10.8. The Vendor is required to provide updates by noon on Friday to the baselined project construction schedule, with XER format preferred. This information shall support the status review team meeting.

Updating the schedule includes at a minimum:

Actual start date of a task

Percentage of work completed for task

Anticipated end date of task

Tasks not started by the data date require a new planned start date and end date

## 11 Invoicing Requirements

- 11.1. The Vendor shall submit a monthly invoice by the 25th of the month, in accordance with the Purchase Order to DLC Construction Coordinator Clerk and copy the Project Manager.
- 11.2. If an invoice is not submitted by the 25<sup>th</sup> of the month, the Vendor shall contact the Project Manager by the next to the last business day of the month and provide an amount of the costs incurred for DLC's monthly accrual.
- 11.3. All invoices shall include the Purchase Order number and approval route as specific on the Purchase Order.
- 11.4. All Purchase Orders are to be invoiced separately. If an invoice includes more than one Purchase Order, the invoice shall be returned to the Vendor and require it to be re-invoiced to match each respective Purchase Order, in order for the invoice to be processed. Upon invoice return, the Vendor shall still supply the amount needed for DLC's monthly accrual as outlined in section 11.2 above.
- 11.5. For Firm Fixed Price (FFP) Purchase Orders, invoices are required to follow the format specified on attachment **15.5 Invoice – FFP Application for Payment Certificate**. The *Invoice – Application for Payment* (attachment 15.5, tab 3) certificate is a two page form with the first page being at a summary level and the second page labeled *Continuation Sheet* (attachment 15.5, tab 2) being at a more detailed level.



- 11.6. All FFP construction services Purchase Orders shall have a standard 10% retention withheld from the invoices. The Vendor shall invoice for withheld retainage after DLC's Construction Superintendent and Project Manager have verified all scopes of work are satisfied and project or phase completion package items have been received and reviewed for completeness.
- 11.7. For Time and Material (T&M) Purchase Orders, invoices are required to have the original signed attachment **15.6 Daily Time and Distribution Sheet**. DLC's Construction Superintendent or their representative are authorized to approve and sign the Daily Time and Distribution Sheet. The material section should be completed, as needed.
- 11.8. All monthly invoices, including both Firm Fixed Price and T&M, are required to include a *Monthly Summary* (attachment 15.5, tab 4), which will include a narrative describing the activities and progress, updated project schedule, schedule analysis with projections, cost review with estimate to complete and safety performance summary. If appropriate, a tabular listing of quantiles can be used to support the progress.

## 12 Project or Phase Completion Package

- 12.1. At the conclusion of the construction work, the Vendor is required to submit a Project or Phase Completion Package.
- 12.2. The package shall include at a minimum the following items.
  - 12.2.1. Vendor shall submit one set of "as-built" drawings to the Construction Superintendent. These drawings are to be accurately and neatly marked with field changes.
  - 12.2.2. Vendor shall return to DLC all sets of drawings received and or copied.
  - 12.2.3. Vendor shall supply written acknowledgement to the Project Manager that all ROW restoration and removal of erosion and sediment items are completed.
  - 12.2.4. Vendor shall supply written acknowledgement to the Project Manager that all of the permits are closed.
    - 12.2.4.1. The Vendor shall supply all test results.
  - 12.2.5. Vendor shall submit signed attachment **15.7 Contractor Work Inspection Report** and attachment **15.8 Project Closeout Walkthrough and Acceptance**. Vendor shall verify the final field walk down closeout action items are completed, including site cleanup.



- 12.3. After the Construction Superintendent or Project Manager review and confirm completion of the Project Completion Package, the Vendor may invoice for the withheld retention balance on the Purchase Order.

### 13 RFP Package

- 13.1. Bidder shall supply the following items in their RFP package submittal in order for their proposal to be considered for acceptance:
- *Project Approach Section* including description of the overall approach for the project and details of in-house capabilities of the on-site staffing.
  - *Project Team Organization Section* including description of proposed project organization, staff assignments and qualifications of key personnel.
  - *Bid Construction Schedule* with proposed changes indicated.
  - *List of Assumptions*, including proposed supplied material, tools, specialty equipment, outages, third party requirements, temporary electric power requirements, schedule risks, weather allowances, and any other inclusions and/or exclusions as pertaining to the project.
  - Attachment **15.9 Project Build-Up Table** of itemized tasks and subtasks as described in the scope of work and bid construction schedule broken down by hours by week.

### 14 Definition of Terms

ANSI	American National Standards Institute
Baseline	The approved version of the project schedule that is only changed by DLC's formal change control process/approval and is used as a basis for comparison to actual results.
Bidder	A prospective Vendor who is proposing an offer that DLC shall consider but has yet to accept.
Data Date	A period point in time when the status of the project is recorded. DLC's Data Date recurs each Monday.
DLC	Duquesne Light Company
Elevation	Elevation relative to US Geological Survey Sea Level Datum or elevation relative to the arbitrary datum plane fixed by DLC for the particular work.
FFP (Firm Fixed Price)	A Purchase Order type where DLC pays the Vendor a Price set forth in the Purchase Order regardless of the Vendor's cost unless a change, as defined in the Term and Conditions has occurred.



FTP (File Transfer Protocol)	A standard network protocol used for the transfer of computer files between a client and server on a computer network.
IFC	Issued for Construction Drawings
MUTCD	Manual on Uniform Traffic Control Devices
Premium Time	Any hours worked above 40 hours Monday thru Friday; any hours worked Saturday or Sunday; any hours worked on a DLC holiday.
RFP (Request for Proposal)	A type of procurement document used to request proposals from prospective Vendors.
RFI (Request for Information)	A document whereby the Vendor requests that DLC provide information related to a project.
Schedule Levels	Level 1 – A milestone schedule (all activities listed are zero duration) that shows the date(s) the agreed upon project deliverables are due.
	Level 2 – An activity based schedule showing the activities that support the work to reach the milestones (level 1). No activity should have a duration of less or equal to 10 working days.
	Level 3 – A decomposition of the level 2 schedule to show day to day activities. No activity should have a duration of more than 10 working days.
T&M (Time and Material)	An agreement to pay a Vendor's costs based on an agreed upon rates for the time (hours) and material(s) consumed by the Work.
Vendor	Company that undertakes a contract to provide labor or material to perform the Work.

## 15 Attachments

- 15.1. Vendor After Hour Contact Form
- 15.2. City of Pittsburgh Traffic Obstruction Permit Request Form
- 15.3. City of Pittsburgh Opening & Excavation Permit
- 15.4. Survey Request Form
- 15.5. Invoice – FFP Application for Payment Certificate
- 15.6. T & M – Daily Time and Distribution Sheet
- 15.7. Contractor Work Inspection Report
- 15.8. Project Closeout Walkthrough and Acceptance
- 15.9. Project Build-Up Table



MAP: E7-14  
CKT: D23840-4 (ARSENAL)



100KVA 4KV STEPDOWN  
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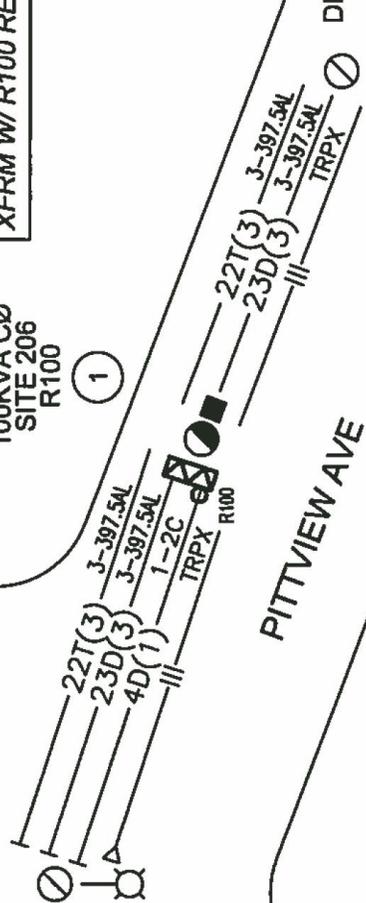
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DL#267

ARLINGTON ST

PITTVIEW AVE



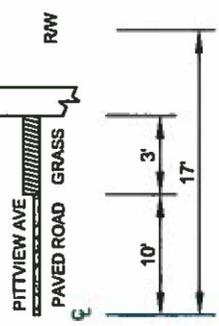
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CN BKT

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100KVA W/ R100 RECLOSER 1Ø (OH-7-6)  
9' SXA (OH-7-28)  
AE CABLE CLAMP (OH-8-18)  
CN BKT

DL#266  
VZ #32/1

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PROFILE 1



DUQUESNE LIGHT CO.

DATE COMPL'D 12/28/2017

SCALE NTS

AS-ISSUED, CHG'S AS-MARKED, CHG'S DATE

OWN BY S. BOOTH

DATE 11.3.2018  
DATE 11.3.2018

SYSTEM BETTERMENT  
2311 PITTVIEW AVE

RESERVE

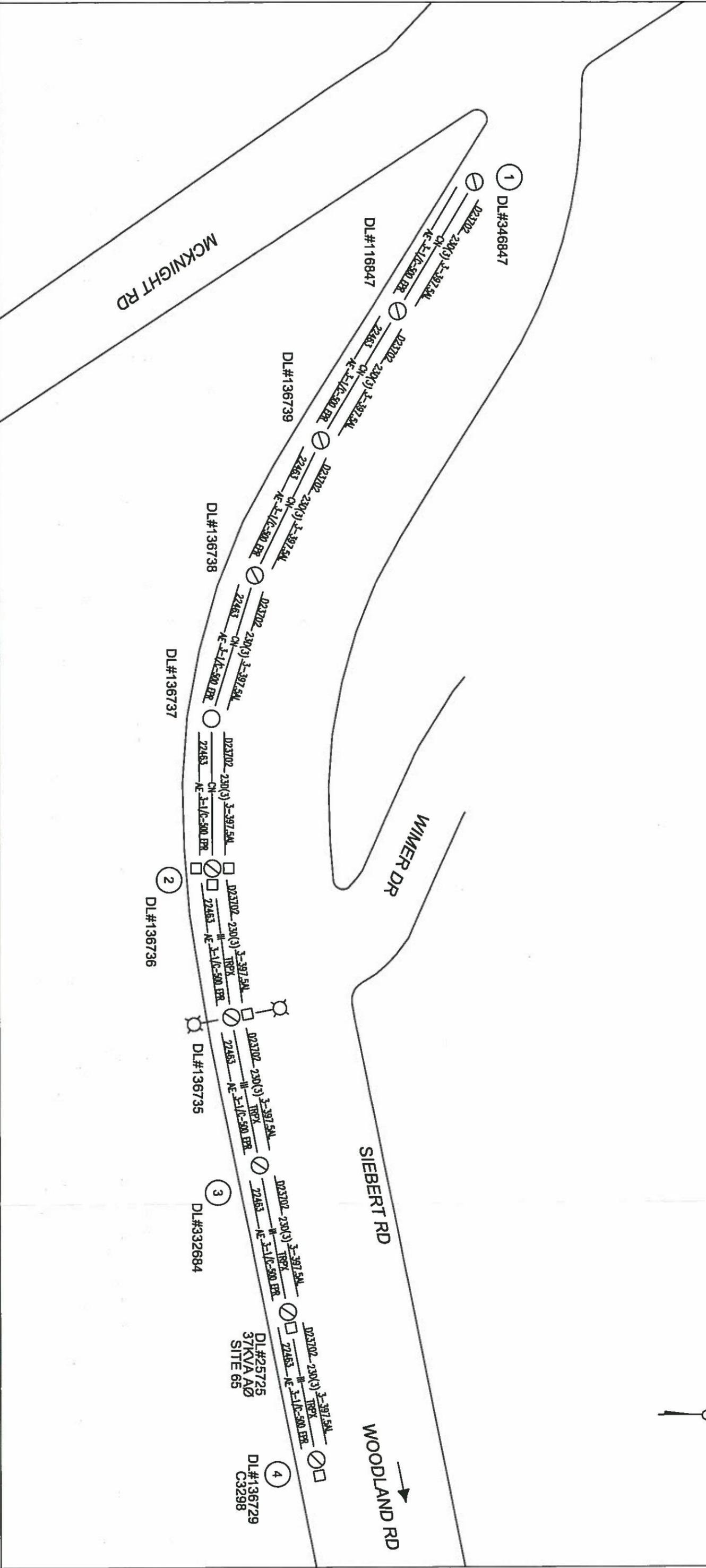
THIRD PARTY ATTACHMENT REQUEST  
REPLACE DL POLE 266  
FORM NO. 15-0024

700108

REV. 0



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RAISE CN 3'-7"
- ② DL#136736  
VZ #57123  
RAISE 22463 AE 7"
- ③ DL#332684  
VZ #57124.5  
RAISE 22463 AE 1'-9"
- ④ DL#136729  
VZ #57126  
RAISE 22463 AE 2'-5"  
RAISE TRPX 4"



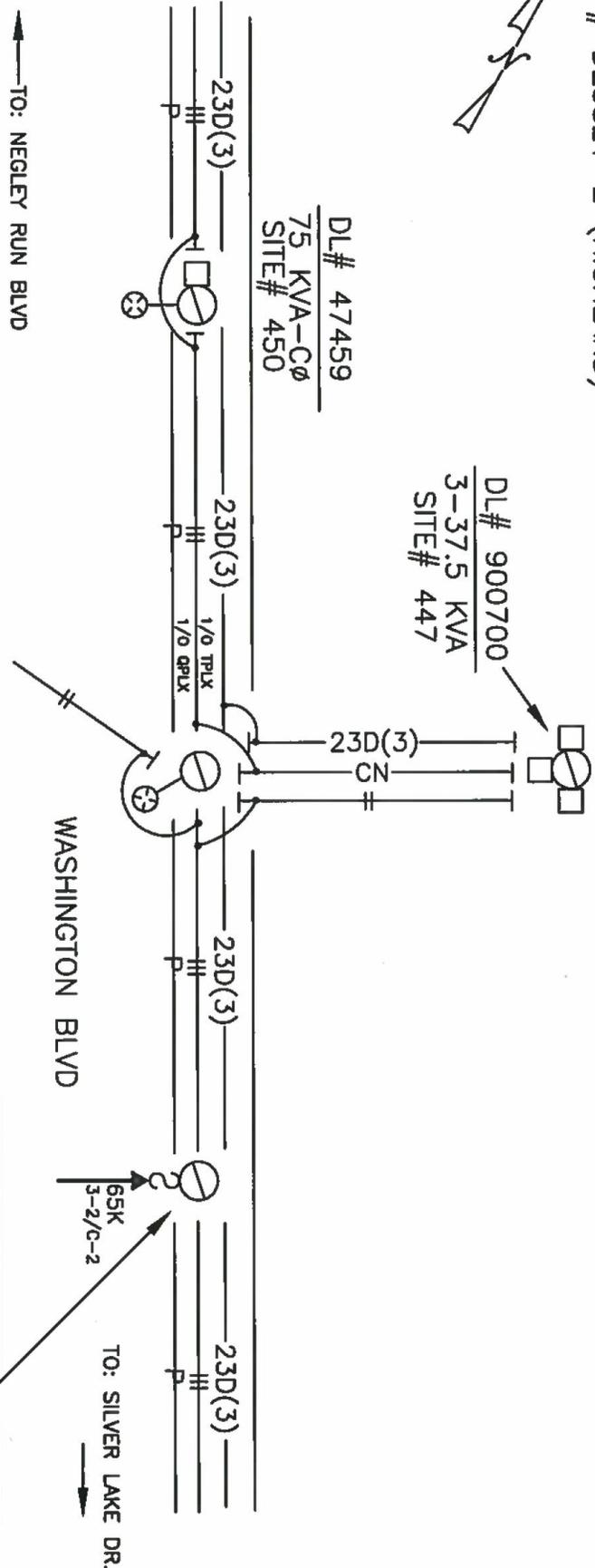
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 22463 (NORTH-LAWRENCE NO. 2)

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				DATE		DATE		REV.	
				3.20.18		3.20.18		458073	
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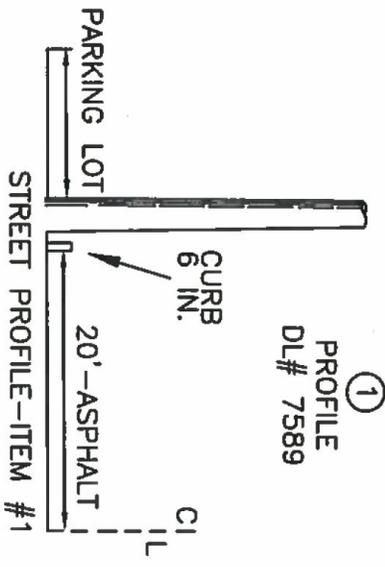
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700099

MAP # F7-11  
 CKT # D23821-2 (HIGHLAND)



RAISE SECONDARY BRACKET, NEUTRAL BRACKET, AND STREET LIGHT FOR CLEARANCE FOR 3RD PARTY ATTACHERS. LOWEST 3RD PARTY MUST BE 20'10" OFF OF GROUND. POWER BANK MUST BE 40' ABOVE TOP 3RD PARTY WIRE. PRIMARY MUST BE 6 FEET FROM SECONDARY BANK. SEE DH-14-3.



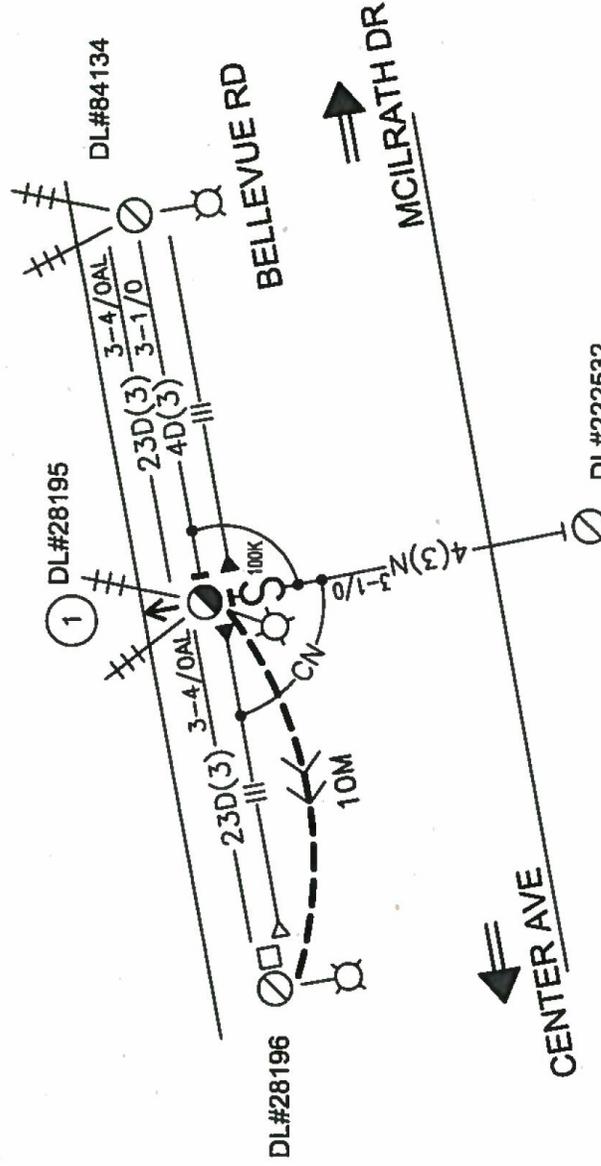
**DLC** DUQUESNE LIGHT CO.

ISSUED THIRD PARTY ATTACHMENT - RAISE FACILITIES  
 SUBJECT RAISE 358 BKT. CN BKT & STREET LIGHT FOR 3RD  
 ATTACHMENTS.  
 LOCATION 1050 WASHINGTON BLVD - 12TH WARD, CITY OF PGH

AS-ISSUED_CHK'D	AS-MARKED_CHK'D
DATE	

DESIGN	TRACED/PROPOSED	DATE	DATE	DATE	DATE	DATE
A Wang		5/13 2018	5/13 2018	15-004		
					MTS	700099

MAP: E6-8  
 CKT: D23690-3 (BRUNOT ISLAND)

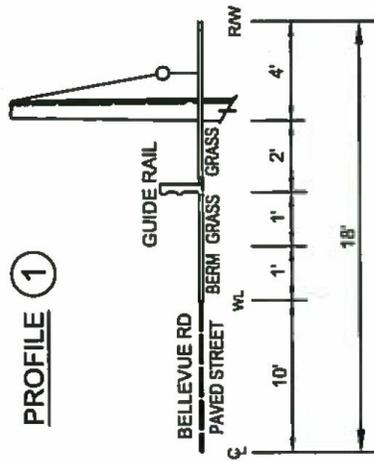


①

DL#28195  
 VZ #????

- 45'(3)
- 50'(2)
- 23KV 8' SXA (OH-7-27)
- 4KV 8' DXD BUCK (OH-7-4)
- 4KV 18M STANCHION GUY
- 4KV 10M L.G.
- 4KV 10M L.G.
- 3 - 4KV 100K FUSES
- 4KV 10M L.G.
- 358 BKT
- 2 - CN BKTS

TRANSFER SL & SVC



PROFILE ①

- THIRD PARTY TRANSFERS  
 NJUNS TK #3365966
1. FIBERTECH
  2. COMCAST
  3. VERIZON

**DLC** DUQUESNE LIGHT CO.

SYSTEM BETTERMENT		ROSS	
309 BELLEVUE RD		THIRD PARTY ATTACHMENT REQUEST	
DATE COMPLETED		REPLACE DL POLE 28195	
AS-ISSUED, CH'D	AS-WORKED, CH'D	DATE	DATE
		12/21/2017	1.3.2018
SCALE	NTS	DATE	DATE
		12/21/2017	1.3.2018
DATE	DATE	DATE	DATE
		15-0024	452689

REV.

## **CONTRACTOR CODE OF CONDUCT**

### **PURPOSE**

To reaffirm the Company's commitment to conduct its business in accordance with the highest standards of business and common sense ethics and require Company's contractors to uphold that commitment while on Company property and performing work for Company.

### **SCOPE**

This policy applies to any contractor, including without limitation, seller, vendor or other service provider ("Contractor") doing business with Duquesne Light Holdings and its subsidiaries, including Duquesne Light Company, DQE Communications, Duquesne Light Energy and Duquesne Power (the "Company"). This Contractor Code of Conduct (this "Code") is incorporated into the agreement by and between Contractor and Company by reference hereto in such underlying agreement (the "Agreement").

### **POLICY STATEMENT**

It is the policy of Company to conduct its business in accordance with all applicable laws, rules, regulations and the highest ethical standards. Accordingly, it is the responsibility of Contractor and its personnel or representatives to adhere to this Code as Contractor carries out its responsibilities under the Agreement. Failure to comply with, or violation of, this Code may result in termination of the Agreement for cause or other remedies as may be available under the Agreement.

### **SAFETY**

The safety of Company's employees, contractors and the public is of paramount importance to Company. Contractor will comply with the more stringent of Contractor's safety policies and procedures and those of Company. Company reserves the right to audit Contractor's safety records and Contractor will promptly provide any safety-related reports requested by Company. Company reserves the right to request any employee of Contractor or subcontractor of Contractor be removed from any Company-owned or Company-operated property if Company, in its reasonable discretion, believes that such employee or subcontractor exhibits a disregard for applicable safety requirements.

### **PROTECTING COMPANY PROPERTY AND ASSETS**

No Contractor has an expectation of privacy in Contractor's use of Company systems or in any messages or information composed, sent, stored or received on Company systems. Likewise, Company reserves the right to inspect, examine and monitor the use of Company equipment, property and systems at any time with or without notice in accordance with applicable law.

It is critical that all Company property and systems, including computer, Internet and voicemail systems, be used appropriately and in accordance with all Company policies. Sending, saving, accessing, or viewing offensive or inappropriate material is prohibited. Messages stored and/or transmitted by Company's electronic resources, including, but not limited to, the computer, voicemail, email, text messages, or the telephone system, must not contain content that may be considered offensive by any reasonable person. Offensive material includes, but is not limited to, sexual comments, jokes or images, racial slurs, gender-specific comments, or any comments, jokes or images that would reasonably offend someone on the basis of his or her race, color, sex, sexual orientation, age, national origin or ancestry, disability, or any other category or the perception of his or her category protected by federal, state or local law.

### **PAYMENTS OR GIFTS TO GOVERNMENT OFFICIALS**

You may not offer indirect payments or favors that are intended to influence a public official's judgments or decisions in connection with goods or services provided under the Agreement.

## **COMPLIANCE WITH LAWS AND REGULATIONS**

Company is committed to compliance with all of the laws, rules and regulations that govern its industry and business dealings. Similarly, Company requires all Contractors to perform under their Agreement with Company in accordance with laws and regulations applicable to that Agreement.

## **PAYMENT OR GIFTS TO COMPANY EMPLOYEES**

Contractor may not offer, solicit or accept anything of value to improperly influence, or appear to improperly influence, any person employed by or in a business relationship with Company. This includes, but is not limited to, bribes, kickbacks, or loans to employees or any person or company on behalf of Company. The offer or acceptance of cash gifts or gift cards to Company employees is strictly prohibited. Contractor will maintain a record of all gifts and gratuities provided to Company personnel, including the date, amount, recipient and description of the gifts. Additionally, Contractor will consent to an audit by Company of Contractor's records as they relate to the giving of gifts to Company employees or gifts given in connection with the Agreement. The audit will occur no more frequently than annually and Company will provide at least two weeks' notice prior to the audit.

## **HONESTY IN BUSINESS COMMUNICATIONS**

Contractor, its employees, agents, representatives or subcontractors have a responsibility for honesty and fair dealing in their relations with and on behalf of Company. They are expected to be honest and forthright in their spoken and written communications with Company personnel and others with whom they conduct business. This expectation applies to written and verbal dealings, including internal and external reports, proposals, bids, price negotiations, and all other documents.

## **RECORDKEEPING**

Contractor records must be accurate and appropriately detailed in accordance with the Agreement. Contractor must not prepare, submit or transmit records, including without limitation time, expense and work records that intentionally or otherwise falsify or misrepresent the true nature of the transactions or work performed.

## **CONFIDENTIAL INFORMATION**

Contractor may have access to non-public information concerning Company's and its customers' technology, business transactions, finances, operations or personnel, including access to information that may qualify as Critical Cyber Asset Information or Critical Energy Infrastructure Information ("CIP Information"). Confidential information should only be disclosed internally and on a "need-to-know" basis, and/or as permitted by Company policies and applicable regulations. Contractor will not use such information for its personal benefit or for the benefit of others during or after the term of its Agreement with Company.

Contractor will notify Company within twenty four (24) hours of the separation of any Contractor employee engaged in work under the Agreement, other than those with access to CIP Information. If a Contractor employee with access to CIP Information is terminated for any reason, Contractor will notify Company immediately of such termination so that Company may comply with applicable federal regulations.

Any information regarding Company's customers to which Contractor is exposed must be kept confidential and used only for approved Company purposes. Contractor is responsible to safeguard the confidentiality of customer information and to ensure that the use of customer information is consistent with Company policies, contractual obligations and applicable laws. Unless expressly permitted in writing, Contractor must never disclose customer information to anyone, including its employees, who have no business need to know the information or do not have appropriate customer or legal authorizations. Contractor must not use customer information for its own interest, benefit or

gain, or help a third party obtain customer information. Furthermore, if Contractor detects unauthorized or fraudulent use of customer information, Contractor will notify Company immediately.

Company has a major investment in intellectual property, such as trade secrets and confidential information, and protecting this property is a high priority for Company. Company is committed to the aggressive pursuit of violators by proper legal means. Upon termination of the Agreement, Contractor will return all materials, documents or other written information obtained during the Agreement. For additional information please see Cyber Security and Information Protection Policy and Duquesne Light Company Privacy Policy.

#### **DISCLOSURE OF INFORMATION**

In accordance with the PA Public Utility Commission's Code of Conduct, the disclosure of information from an electric distribution company to an affiliate electric generation supplier that would result in any preference in the processing of a request for competitive electric generation supplier service, or the disclosure or dissemination of customer information is prohibited. For additional information please refer to the FERC Standards of Conduct or the PA PUC Code of Conduct, 52 Pa. Code § 54.122.

#### **DRUG AND ALCOHOL POLICY**

Company is committed to maintaining a drug-free work environment, including a workforce free from the effects of drug and alcohol abuse. It is a violation of Company policy for Contractor, its employees, agents or subcontractors, to use, possess, sell, or transfer illegal or medically unauthorized drugs or be under the influence of such drugs while engaging in Company business at any time. Company reserves the right to remove any person from Company-occupied premises immediately should Company employees reasonably suspect that such person is under the influence of such drugs.

#### **HARASSMENT AND DISCRIMINATION**

Company is an equal opportunity employer and provides a workplace free of harassment. Company prohibits harassment or discrimination based upon an individual's race, color, religion, creed, gender, pregnancy or related medical conditions, age (40 and over), sexual orientation, veteran status, national origin or ancestry, physical or mental disability, genetic information or any other consideration protected by federal, state or local laws.

#### **WORKPLACE VIOLENCE**

Company takes workplace violence extremely seriously. All forms of workplace violence, threatened, communicated or carried out, by or against any employee, customer, supplier, contractor or visitor, is strictly prohibited. This includes any form of harassment, bullying or intimidation. Any use or possession of dangerous weapons, whether illegal or not, is prohibited on Company property or while on Company business. A dangerous weapon is a device, instrument or substance that is used for, or is readily capable of, causing death or serious bodily injury, including but not limited to guns, knives, clubs, chemicals and explosive devices. Dangerous weapons do not include work tools that are being appropriately used to complete work duties.

#### **BACKGROUND CHECKS**

Subject to and as provided in the Agreement, Contractor hereby agrees to conduct a thorough background investigation (BI) upon any employee, Subcontractor and/or agent of Contractor whose services may be leased to Company. The BI shall determine any and all information of concern within the background of the prospective employee, contractor and/or agent, whether or not the information is available in public records. Additionally, the BI shall investigate the prospective leased employee's, Subcontractor's and/or agent's criminal records for the past seven (7) years using

the social security number/address verification and E-Verify, a search of the federal district courts, and federal wants and warrants, National Criminal Database Search (which includes criminal records for 41 states, a sex offender search for all 50 states, and an OFAC report), as well as a county criminal search. If driving is required as a part of the job duties, drivers' licenses and motor vehicle records will be investigated for the previous seven (7) years. Contractor shall not refer to Company any prospective leased employee, contractor and/or agent who has either failed or refused to submit to a BI. Contractor may employ the services of the investigative agency/credit agency or bureau of its choice, subject to the Company's approval, so long as the agency(ies) selected is/are reputable and investigations comply with the Fair Credit Reporting Act. BI are valid for sixty (60) days from the date of investigation. Contractor must submit to Company: (1) its procedures for BI; and (2) criteria that determine whether a worker has passed a BI.

Pursuant to the requirements of NERC Cyber Security Standard CIP-004 – Personnel and Training, Requirement 3 – Personnel Risk Assessment, any leased Contractor's employee, Subcontractor and/or agent granted unescorted physical access into Company identified NERC physical security perimeter or cyber access through an identified NERC electronic security perimeter shall also require a seven (7) year updated BI that includes, at minimum, identity verification (Social Security Number verification and E-Verify in the U.S.) and seven (7) year criminal check. The NERC BI shall be conducted by Company.



## REQUEST FOR PROPOSAL

### Introduction

Duquesne Light Company's (DLC) Third Party Attachment (TPA) team is responsible for permitting any attachments onto or within a DLC owned facility. Through DLC's system of record, Varasset, the team reviews, documents, and ultimately approves attachments within the Federal Communication Commission (FCC) mandated timeframes for utility pole attachments. The TPA team has historically completed around 2500 pole attachments on a yearly basis and is anticipating a total of 2,000 pole attachment requests through the end 2018. In 2019, we do not believe we will return to our baseline demand of 2500 pole attachments but instead could have up to 12,000 attachment requests. DLC anticipates a new average of around 6,000 pole attachments per year starting in 2020.

Currently, DLC requires all communication companies to gather and submit all design and engineering data to DLC for review and approval/reject of the application. DLC has observed inefficiencies in this area which has led to increases in time to market for these companies and increased labor requirements for DLC.

### Background

The FCC requires regulated utilities to adhere to the four-stage timeline below for pole attachment submissions from Communication Companies:

Stage 1 – Survey: 45 days Wireline, 60 days Wireless

- Pole owner conducts an engineering study to determine whether and where attachment is feasible, and what make-ready is required.

Stage 2 – Estimate: 14 days

- If the application for attachment has been approved, an estimate of charges for performing all necessary make-ready work is provided within 14 days of providing the Stage 1 response.

Stage 3 – Attacher Acceptance: 14 days

- The Communication Company which has requested to attach to utility facilities has 14 days to accept or deny the charges for the necessary make-ready work.

Stage 4 – Make-Ready: 60 days

- Under most circumstances the FCC will require a utility to complete routine make-ready work within 60 days of receipt of payment.

Considerations to four-stage timeline:

- The FCC adopted limits on the size of attachment request that are subject to the access timelines stated above.
  - For a given Communication Company with applications totaling over 300 poles but less than 3000 poles, utilities are then granted 15 additional days to the



Survey period and 45 days to the Make-Ready period. Totaling 60 additional days.

- For a given Communication Company with applications totaling over 3000 poles, the timelines are to be negotiated between the Communication Company and utility.
- FCC mandated timeframes are subject to change and the selected engineering firm is required to adjust to these changes.

DLC utilizes Varasset to receive, document, communicate, and track all permitting application requests from Communication Companies for Overhead and Underground facilities. The four-stage process introduced by the FCC has been broken into the DLC permitting process steps below:

- Review Ticket
- Provide Access Request Fee
- Pre-Construction Inspection
- Review Make Ready Provide Payment
- Perform Make Ready
- Perform Remedial Work
- Perform Minor Make Ready and Attach
- Review Work Needed
- Attach

Stages 1 through 3 of the FCC timelines are captured in the actions or activities listed above.

### **Deliverables**

DLC is requesting for the selected engineering firm to analyze the National Electric Safety Code (NESC), the Occupational Safety Health Administration, and DLC Standards and Guidelines for permitting communication attachments. The TPA team is requesting for the selected engineering firm to complete all Pre-Construction analysis and make-ready determinations within the most current FCC mandated timelines. DLC is requesting the selected vendor to complete and/or support the following activities in line with our standard processes.

#### **Review Ticket**

- Verification of all needed documentation to process the Varasset application or ticket in accordance with the DLC Attachment Guidelines.

#### **Provide Access Request Fee**

- This activity is submitted to the Communication Company once all documentation has been verified in the Review Ticket stage of the application. This fee is required to be provided by the Communication Company to move forward in the permitting process.

#### **Pre-Construction Inspection**

- Requires a site survey of all poles needing permitted on the application
  - Site survey should include the following documentation



- 3 photos of the entire asset
- At least 1 of the 3 photos must include clearance heights from the ground to the top of the pole and labelling of each attachment on the asset.
- DLC requires the utilization of the IKE GPS 4 (or equivalent technique with a 2 inch tolerance) during all permitting application activities.
- Determination of the form of make-ready work needed to accommodate the Communication Company's new attachment

#### Make-ready Activities

- Major/Remedial Make-ready Activities
  - Work conducted in power space, this includes pole replacements; this work is executed by DLC. Excludes Minor Make-ready work.
- Minor Make-ready Activities
  - This work is limited to the communications space, secondary, select U-guard installation and streetlights; this work is executed by the attaching party, or qualified contractor working on behalf of.

The selected engineering firm is responsible for determining the correct cost-causer for the necessary make-ready work.

#### Review Work Needed

- For Major or Remedial Make-ready Activities, the TPA Team must approve the work before the application can be approved.

#### Attach

- This activity gives the Communication Company permission to attach to the DLC owned facility.

From the permit application process detailed above, the selected engineering firm will be responsible for the following activities: Review Ticket, Pre-Construction Inspection, any Make-ready determinations (Minor and/or Major), the Attach activity, and all communication required with the communication companies for processing a pole permit application. These activities link directly to the sequential order of operation for processing a pole permit application. DLC personnel will be responsible for all other activities associated with the pole permit application. Additionally, the selected engineering firm will be responsible for identifying all communication companies which have submitted in excess of 300 poles in a given 30 day timeframe.

Furthermore, the selected engineering firm will be responsible for all project management activities including the management of the generated Make-Ready work orders from all permitting within the DLC system of record.

In summary, DLC is seeking for the selected engineering firm to complete all application activities up to and including the approval for a Communication Company to attach to our facilities within the currently applicable FCC mandated timelines. Where major make-ready is

needed, the selected engineering firm will be responsible for identifying the appropriate work needed to provide capacity and submitting to DLC for approval.

### **Permit Engineering**

Complete the design, permitting, and engineering of Third Party Communication attachments to DLC facilities for volumes mentioned previously within this proposal. Design, permitting, and engineering to include all or any Minor and/or Major-Make Ready required to successfully attach to DLC owned assets.

All engineering must adhere to DLC Attachment Guidelines, Standards, industry regulations and codes (including the NESC).

DLC has observed inefficiencies in this area which has led to increases in time to market for these Communication Companies and increased labor requirements for DLC. The selected engineering firm will be responsible for addressing these inefficiencies within the current processes.

A 15 day turnaround time or less for all Permit Engineering is required.

### **Make-Ready Engineering**

Make-Ready Engineering may occur after the Pre-Construction Activity within the permitting process. Make-Ready includes but is not limited to Aerial Cable Relocations, Power Equipment Relocations, Power Pole Replacements, Guy Pole Replacements, Secondary Conductor Relocations, Street Light Relocations, and Relocation of Communication Cables. A 15 day turnaround time or less for all Make-Ready Engineering is required for all applications (volumes mentioned previously with this proposal) when permissible based on local authority right of way access and permitting.

A system generated work order will be created within the DLC work management system (known as WAM) for each job and may include a single pole or several poles depending on the description in WAM. The selected engineering firm will be responsible for the evaluation of each pole indicated in WAM and determine whether a pole replacement is needed or the rearrangement of facilities is an option. Recommendations from the field visit may increase or decrease amount of design needed.

Upon the completion of all Make-Ready engineering, a ticket must be generated within the National Joint-Use Notification System (NJUNS) for all communication assets needing transferred.

The selected engineering firm will be responsible for project managing all work orders generated by make ready activities and providing DLC with weekly report for all work orders.

Field Requirements:

- Verify existing conditions and take a detailed inventory of existing DLC asset.



- Complete a visual inspection of right of way. If visual inspections of the line show overgrown trees, remove trees. Provide construction drawing with VM cloud detailing poles needing vegetation reduction.
- Check for clearance issues regarding overhead construction, including third party clearances. No pole top extensions will be added to new or existing overhead construction.
- Create detailed construction drawings suitable for completion of permit procurement, ROW procurement, bill of material input into WAM and construction activities. Data collected as part of the field review process is to be submitted for DLC use.
- Verify distribution and sub-transmission circuits on engineering drawings for all poles affected.

#### Design Requirements:

- All drawings will be prepared to a standard drawing format that has been added within this request for proposal package. The drawings will be submitted to DLC for review of design and material. Any revisions required will be reviewed and resubmitted by the selected engineering firm for record. The revised drawings will be used for WAM entry, NJUNS Tickets, regulatory permitting, private ROW acquisition and vegetation management which will be the responsibility of the selected engineering firm. The selected engineering firm will provide (when necessary) present and proposed updates to the circuit maps, duct maps, and structural drawings on the DLC system to reflect the changes. The final design will incorporate revisions required as a result of the ROW, permitting, vegetation and constructability from a DLC field review. Final drawings will be issued upon completion of NJUNS Tickets, ROW procurement and WAM bill of material entry. The selected engineering firm may also be responsible for any modeling for transmission pole attachments or crossing.
- Design package will include photos of all poles.
- Defined Deliverables from the Design
  - Detailed drawing sets: Issued for Review, Issued for Permit, Issued for Bid, Issued for Construction, As-Built, Circuit map revisions.
- Drawing Requirements
  - Drawings must be prepared using AutoCAD and saved to 2010 file format. The drawings submitted for review shall be in PDF format.
  - Issue each drawing package for review as Issued For Construction (IFC = 100%) prior to issuing for fabrication or construction. Make any changes resulting from the review.
  - Update and issue "As-built" drawings to incorporate any agreed-upon changes that may be made during construction. As-built drawings will be drafted into GIS by DLC mappers.
  - All drawings issued for construction or fabrication, as well as "As-Built" drawings shall be reviewed, stamped and signed by a Professional Engineer licensed in Pennsylvania.
  - All drawings shall be spatially accurate and within the appropriate coordinate system.



- Designs to adhere to existing Duquesne Light standards and specifications, and all other applicable codes and regulations.

**General Requirements:**

- **Engineering Calculations**
  - Guying
  - Pole Loading
  - Load balancing of connected load
  - Voltage Drop
  - Cable pulling tension
  - Transmission crossings may require DLC or utility owner's approval
- **Rights of Way documents**
  - Municipal permit applications
  - County permit applications
  - State permit applications
  - Private ROW forms
  - River crossing permits as required
  - Railroad crossing permits as required
- **Design Estimates / Bill of Material**
  - Project Scope Cost Estimate created and issued broken down by OH investigation, OH construction work, and vegetation management requirements
  - Distribution bill of material items entered into WAM
  - Master procurement plan/bill of material document
    - Bill of material for contractor work
    - Bill of material for internal DLC work
  - Long lead item material memorandums through WAM
  - Submit Material Memos for transformers and other specified DLC equipment.
- **Pole attachment communications**
  - Third party verification and entry into the NJUNS system on behalf of DLC.
  - Create NJUNS Tickets and activate the tickets once construction is completed.
- **Engineering services during construction phase – The selected engineering firm will be available throughout installation to answer design related questions that may arise in the field. If necessary design revisions during construction will be implemented into the drawing package. All design changes during construction must be approved by the appropriate DLC Personnel for approval.**
  - As-Built drawings will be prepared after the construction of the project. As-Built drawings will be based on 'red-line' drawings provided by construction.
- **The Supervisor of Third Party Attachments will be the main point of contact at DLC and shall be notified of all project-related communication. Direct contact with other relevant DLC personnel is acceptable provided the Lead is also notified. Similarly, the selected engineering firm shall provide a main point of contact for addressing DLC communications.**



### **Additional Scope – Make-Ready Construction**

The selected engineering firm for Make-Ready Construction shall be responsible for, but not limited to: supply of labor, project management, supervision, oversight, inventory and material management, equipment, work verification, tools, personal protective equipment (PPE), traffic/flagging and work-zone control, training, and documentation necessary to safely complete all necessary construction.

Make-Ready construction shall adhere to the approved Make-Ready Engineering provided by DLC Engineering Department or approved Engineering Firm.

Selected engineering firm shall, for each job, field survey the project, place One Calls (if necessary), and communicate any necessary power outages to the DLC Construction Superintendent and affected customers. Furthermore, the selected engineering firm shall procure materials through an approved and authorized DLC Vendor and coordinate delivery of necessary materials to the project site. Selected engineering firm should then construct all designed engineering on defined site, schedule all required power or communication outages, document the as-built condition, recondition work area, demobilize and deliver as-built information to DLC Construction Superintendent.

All DLC engineering drawings will reference a specific DLC Standard which will be made available to the selected engineering firm to utilize during construction.

All work and charges will be traceable to a DLC Work Order which should be updated at the completion of each task within the work order. The selected engineering firm shall utilize DLC White Sheets for tracking any charges incurred on a work order which will need approved by a DLC Construction Superintendent. All invoicing, claims and/or accounting shall be accompanied by DLC White Sheets and specify the correct DLC work order number and purchasing order number on the submission.

The selected engineering firm shall submit invoicing by the 25<sup>th</sup> of each month to the specified DLC Construction Clerk and DLC specified Project Manager. Selected engineering firm shall manage all costs and shall notify the DLC Supervisor of Third Party Attachments of any needed charges that exceed 33% of the specified fees on the DLC Fixed Fee Schedule or engineering firm provided detailed cost estimate.

Workmanship shall conform to the highest standards and adhere to commonly recognized federal, state, local, industry, and/or trade guidelines and best practices.

Selected engineering firm shall comply with 29 CFR 1926, "Safety and Health Regulations for Construction," 29 CFR 1910.269, "Electric Power Generation, Transmission, and Distribution," and all other applicable federal, state, local, and industry safety guidance and requirements.

Selected engineering firm shall, on a daily basis, before the start of each workday, conduct a site-specific/job-specific hazards analysis and discuss these findings, as well as the precautions to-be taken, with all parties present in the work area including visitors.

Selected engineering firm shall comply with all applicable safety policies, procedures, and guidelines.

Duquesne Light, "Construction Specification," Revision 1, dated January 5<sup>th</sup>, 2018, shall apply unless otherwise agreed upon.

A 30 day turnaround time or less is for all Make-Ready Construction is required for all applications unless separately agreed upon due to system reliability or maintenance.

If the selected engineering firm cannot provide direct construction services, please provide a plan to support a construction contractor performing these activities. This plan should include all documentation which will be provided directly to the construction contractor to support the completion of this work.

### **Additional Scope – Post-Construction**

Complete the Post-Construction Inspection and verify all attachments were installed as approved in the engineering design during the Pre-Construction Inspection. When the construction does not match the approved Pre-Construction design, an NJUNS ticket will need completed to notify the company in violation. Additionally, Violation Fee Invoices will need created and sent to the appropriate company in accordance to the DLC Attachment Guidelines.

All construction must adhere to DLC Attachment Guidelines, Standards, industry regulations and codes (including the NESC).

All Post-Construction Activities must be completed within 30 days or within the FCC Regulated timeframes (whichever is shorter) of notification of construction completion.

### **Training**

DLC will provide training for up to three (3) engineers from the selected engineering firm's initial staff, if necessary. It is expected that this training will not exceed 40 hours.

Training will include familiarizing the selected engineering firm with DLC's software packages and processes and may include sample packages for practice review and correction. The selected engineering firm shall perform their own training for additional staff.

A complete set of all required training documentation will be provided to the selected engineering firm for reference. The selected engineering firm shall factor ongoing training costs for process or software updates into its work category rates.

Training will not include how to measure facilities in the field or how to evaluate pole loading. Training may include, but is not limited to, the following categories:

- DLC's end-to-end Make Ready process
- Review of DLC's Standards manual and other design criteria



- NJUNS System entry and modification. Other entry options available through NJUNS are at the selected engineering firm's expense
- DLC's design process and software
- DLC's tree trimming process
- DLC's work methods training for determining needs for construction equipment
- Demonstration of DLC's pole loading software

### Submission Requirements

Applicants must provide a clear and concise proposal package that includes a strategy and execution plan for:

- Reviewing all application or ticket documentation
- Collecting accurate pole data from site specific locations
- Documenting all cable clearances and measurement on a given pole
- Determining the needed Make-ready to be completed per pole for a new communication attachment
- Communication plan with DLC for any questions or concerns
- Cost per pole to process a pole attachment application from the Review Ticket Activity to the Attach activity.
- If the selected engineering firm selects to perform all areas of work within the proposal, DLC will require a monthly report on monthly averages and year-to-date averages on timeframes of work and financial concerns as they align with the DLC Fixed Fee Schedule.
  - Additionally, the program may require detailed estimates and final invoices for any make-ready costs in accordance with FCC regulations.

### Selection Criteria

Qualification of the Selected Engineering Firm

- DLC will be seeking an engineering firm that can adhere to the NESC, OSHA, DLC Standards and Guidelines.
- The Selected engineering firm should have prior experience in the Joint Use/Third Party Attachment space.
- Selected engineering firm should have experience with distribution pole clearance and construction.

Record of Implementation

- DLC requires all communication with Communication Companies to be implemented through the system of record, within reason. If the topic requires an email, DLC requires a copy of the email string containing the final determination to the proposed issue.

### Terms of Proposal

- DLC will have the right but not the obligation to deny the engineering firms' personnel participation in this contract.
- DLC retains the right to suspend or terminate the contract with the selected engineering firm due to the decreased demand of pole permits, quality concerns, or any additional justifiable reasoning within the final agreement.



- The selected engineering firm will be responsible for adequately staffing personnel to meet or exceed the turnaround times for all activities stated in this proposal.
- DLC will hold the selected engineering firm responsible for meeting all regulatory timelines applicable to the program.
- As the FCC revises and mandates new regulated timelines, the completion timeframes for permit and construction activities within this proposal may become obsolete. The selected engineering firm is expected to be able to adjust to any new FCC mandated timeframes or other applicable laws or regulations.

### **Selected Engineering Firm Project Manager and Project Personnel**

- The selected engineering firm must designate a project manager who must be responsible for the coordination of all work between the selected engineering firm and DLC.
- The selected engineering firm's project manager must not be removed or replaced without the approval of DLC except for conditions outside the control of the selected engineering firm.
- The selected engineering firm must provide a list of the personnel to be on DLC's site for approval by DLC.
- The list of those with access must be provided to, and approved by, DLC. Such personnel must be subject to appropriate background checks and other requirements stated in this specification, the Purchase Order and its general terms and conditions.
- The selected engineering firm must inform DLC of any pending or possible changes in the use or status of all DLC core project personnel. Any changes to the selected engineering firm dedicated project staff, including work assignments and participation level, must be announced as soon as practical and must be subject to DLC's approval. In the event a member of the selected engineering firm's staff, with access to DLC's systems, is no longer assigned to the project, the selected engineering firm must notify DLC within 1 working day of the departure. If the selected engineering firm's staff was terminated for cause, the selected engineering firm must notify DLC immediately.
- DLC must have the right to have any selected engineering firm's staff removed from the project.
- The selected engineering firm and DLC will arrange, at a minimum, quarterly meetings with the selected engineering firm's leadership and DLC Project Sponsors to review the project status and any issues.

### **Proposal Cost Scenarios**

1. DLC is requesting for the Engineering Firms interested in this proposal to submit a per pole cost for all pre-construction and record tracking activities mentioned.
  - a. The per pole cost submitted will be utilized during the selection process and will be utilized to estimate the value of the contract awarded.
  - b. A cost breakdown of all elements included within the per pole cost should be included within the submission.
2. All participants are encouraged to include any or all additional scope of work items within their proposal with associated costs structures (per pole, T&M, or other).



**Point of Contact**

For any questions or concerns with this request for proposal, please contact DLC Purchasing Group.

**ENGINEERING SERVICES  
MASTER AGREEMENT**

This Engineering Services Master Agreement (this "Agreement") is entered into by and between Duquesne Light Company, a Pennsylvania limited liability company doing business at 411 Seventh Avenue, Pittsburgh, PA 15219 ("DLC"), and \_\_\_\_\_, a \_\_\_\_\_ ("Consultant") and is effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. DLC and Consultant shall hereafter be referred to collectively as "the Parties".

**WHEREAS**, Consultant desires to provide and DLC desires to receive the engineering services set forth in certain statements of work detailing the nature, cost and timing of such services and executed by the Parties (each a "Statement of Work").

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions of this Agreement and incorporating the above-defined terms herein, the Parties, intending to be legally bound hereby, mutually covenant and agree as follows:

**1. STATEMENTS OF WORK/ACCEPTANCE OF SERVICES**

All Statements of Work shall be governed by and subject to the terms and conditions of this Agreement. Consultant shall notify DLC when, in its opinion, the services to be provided by Consultant under a Statement of Work (the "Services") are completed. DLC shall inspect the Services and/or any reports or work product provided by Consultant and promptly notify Consultant in writing if the Services or parts thereof do not conform to this Agreement. Consultant shall promptly correct all nonconforming Services at its sole expense. Acceptance shall not be deemed to have occurred until Consultant has corrected all nonconformities and DLC has notified Consultant in writing that the Services are satisfactory and acceptable to DLC or ninety (90) days, whichever is earlier ("Acceptance"). Acceptance or payment by DLC shall not waive any of DLC's rights and remedies or relieve Consultant from any of Consultant's duties and obligations, including without limitation Consultant's obligations under Article 3, WARRANTY, below.

**2. PAYMENT**

A. DLC agrees to pay Consultant for the performance of the Services, at the Price(s) set forth in the Statement of Work (the "Price"). DLC agrees to pay undisputed invoices within forty-five (45) days of Acceptance of the Services, or receipt of an accurate invoice, whichever occurs later. If any portion of the Services does not conform to the requirements of this Agreement upon inspection by DLC a corresponding portion of the Price may be withheld by DLC until the nonconformity is corrected.

B. Consultant shall not be reimbursed for any out of pocket expenses (including without limitation, travel and lodging expenses) except as specifically provided for in this Agreement or otherwise agreed to in writing by DLC.

C. Consultant shall provide written notice to DLC when Services equivalent to seventy-five percent (75%) of the Price has been completed.

**3. WARRANTY**

Consultant represents, warrants and guarantees that Services provided under this Agreement shall be (1) provided in accordance with the requirements of this Agreement; (2) provided in a skillful, workmanlike and professional manner and consistent with generally accepted industry practices and procedures in Consultant's particular area of expertise; and (3) performed in accordance with all applicable law.

If such Services fail to conform to this warranty, DLC shall at its option have the following remedies:

- (1) Require Consultant to promptly reperform the Services at Consultant's expense.
- (2) Have the Services promptly reperformed by DLC or a third party at Consultant's expense.
- (3) Accept the Services as provided and adjust the Price by the amount of the cost of correcting the nonconformity or, at DLC's option, the amount by which the value of the Services are diminished from the value of conforming Services.
- (4) Receive a refund for all nonconforming Services.

The above remedies shall be available in addition to all other remedies available at law or in equity and all remedies shall be cumulative and non-exclusive.

#### **4. OWNERSHIP RIGHTS**

Consultant warrants that the Services shall not infringe or misappropriate the intellectual property rights of any third parties. DLC shall have exclusive use of and own all title, rights and interests in and to all Services. Except as expressly set forth in any Statement of Work, all Services shall be considered "work made for hire".

#### **5. INDEMNIFICATION**

Consultant shall defend, indemnify and hold harmless DLC from and against and shall pay all losses, damages, liabilities, claims and actions, and all related expenses (including reasonable attorneys' fees and expenses and the actual costs of litigation) by reason of injury or death to any person, damage to any property or any other occurrence arising or resulting from the negligent performance of the Services, defects in the Services or from any other cause attributable to the negligence or willful misconduct of Consultant.

Consultant shall notify DLC of all losses, damages, liabilities, penalties, fines, assessments, claims and actions for which Consultant may have an indemnification obligation under this Agreement. DLC shall have the right, but not the obligation, in its sole discretion, to participate in the defense, at Consultant's cost, to the extent DLC deems necessary to protect its interests.

#### **6. INTELLECTUAL PROPERTY INDEMNIFICATION**

Consultant shall defend, indemnify and hold harmless DLC from and against and shall pay all losses, damages, liabilities, claims and actions, and all related expenses (including reasonable attorneys' fees and expenses and the actual costs of litigation) based on an allegation that any Services or parts thereof infringe or misappropriate the rights of others, and if their use by DLC is enjoined, and Consultant shall, at DLC's option and Consultant's expense, either: (i) procure for DLC the right to continue using the Services or parts thereof; (ii) replace the same with substantially equivalent Services or parts thereof that do not infringe or misappropriate the rights of others; (iii) modify the same so they no longer infringe or misappropriate the rights of others (so long as such modification does not adversely or materially affect the performance or functionality); or (iv) refund the Price and any expenses to DLC. Consultant shall obtain from all subcontractors similar indemnity protection for DLC.

#### **7. DISCLAIMER OF CONSEQUENTIAL DAMAGES**

Except with respect to liability incurred under the Articles entitled Indemnification, Intellectual Property Indemnification and Confidential/Proprietary Information, neither party shall be liable to the other party for any indirect, incidental or consequential damages in connection with overhead expenses or loss of anticipated profits or revenue of the other party regardless of the whether a party has been informed of the possibility of such damages.

#### **8. CHANGES**

DLC may at any time by written notice to Consultant (a "Change Order Notice") make changes within the general scope of this Agreement, subject to the written approval of Consultant. If any change results in a material increase or decrease in the cost of the Services or otherwise materially affects this Agreement, the

Change Order Notice shall include an equitable adjustment in the Price, the schedule and/or any other affected provision.

#### **9. DELAY, SUSPENSION OR INTERRUPTION OF WORK**

A. DLC may direct Consultant, in writing, to suspend or interrupt all or any part of the Services for such period of time as DLC may determine to be appropriate. Consultant shall mitigate the costs of such suspension or interruption. DLC agrees to reimburse Consultant for all direct expenses necessarily incurred and approved by DLC as a result of such suspension or interruption, subject to DLC's right to audit Consultant's books and records.

B. Time is of the essence with respect to the obligations contained herein. Consultant shall notify DLC immediately of any delay in milestone or delivery dates hereinafter referred to as "Schedule." If Consultant fails to meet any part of the Schedule, DLC, without limiting its other rights or remedies, may either direct that the Services be expedited or terminate all or part of this Agreement for cause in accordance with Article ~~10.10.10~~, TERM AND TERMINATION. In such event, Consultant shall be liable to DLC for all direct costs, losses and expenses resulting from such delay. In no event shall DLC be liable for costs, losses and expenses in connection with delays unless such delays are solely attributable to DLC and cause the overall Schedule to be exceeded.

#### **10. TERM AND TERMINATION**

A. This Agreement shall remain in effect for the later of two (2) years or until all Statements of Work governed hereby are completed and accepted.

B. DLC may terminate all or part of this Agreement if Consultant abandons the Services, becomes bankrupt or insolvent, assigns this Agreement or subcontracts the Services or any of its parts without DLC's consent or otherwise fails to comply with this Agreement; provided, however, that prior to such termination DLC must have notified the Consultant in writing of its intent to terminate this Agreement and the reasons therefor, and Consultant must have failed to cure, to the satisfaction of DLC, such noncompliance within ten (10) days after receipt of such notice. If DLC terminates for cause, DLC may complete or contract with a third party to complete all or part of the Services, and Consultant shall be liable to DLC for the excess cost to complete all or part of the Services and any other damages resulting from Consultant's noncompliance. If it is subsequently determined that DLC did not have adequate cause to terminate this Agreement pursuant to this paragraph, then the parties agree that such termination shall be deemed to be a termination without cause pursuant to the following paragraph.

C. DLC may also terminate upon thirty (30) days' prior written notice all or part of this Agreement without cause. Upon receipt of notice, Consultant shall bring the Services to a prompt conclusion within the thirty (30) day period. DLC shall pay Consultant a proportionate amount of the Price due to Consultant for Services completed up to the effective date of termination plus costs necessarily incurred directly as a result of the termination, subject to DLC's right to audit Consultant's books and records. Consultant shall upon DLC's request make every reasonable effort to assist DLC in locating another consultant to perform the Services.

D. In all cases DLC may require Consultant to transfer title and deliver to DLC any contracts, rights and Services produced or acquired by Consultant for the performance of this Agreement.

#### **11. DISPUTES**

Any dispute, controversy or claim arising out of or under this Agreement or its performance shall first be negotiated by the parties. Any disagreement or dispute between the parties shall, if not promptly resolved by mutual agreement, be reduced to writing and submitted to executive officers of each party designated by such party to handle such disputes. Within thirty (30) days of the submittal, such executive officers

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may, upon mutual agreement, meet to attempt to resolve the dispute and to hear any arguments that a party wishes to make in connection therewith. If the executive officers reach an agreement of the disposition of the dispute, they shall promptly issue their joint written decision resolving the dispute. Any dispute resolved by such decision shall be conclusively and finally decided and shall not be the subject of any litigation. Should the executive officers be unable to promptly resolve a dispute, either party may commence litigation in a court of competent jurisdiction and venue.

**12. CONFLICTS, ERRORS AND OMISSIONS**

In the event Consultant or DLC becomes aware of any conflict, error or omission in the documents comprising this Agreement, such party shall bring the discrepancy to the attention of the other party. Such discrepancy shall be resolved promptly by the Parties.

**13. FACILITIES, SUPPLIES AND EQUIPMENT**

To the extent that Consultant's Services must be performed at DLC's offices, DLC shall furnish the facilities, supplies and equipment which DLC determines are reasonably required for Consultant to perform Services under this Agreement.

**14. JOB COST ACCOUNTS AND INFORMATION, AUDITS**

Consultant shall maintain detailed separate cost data for each Statement of Work in accordance with generally accepted accounting principles. Consultant's records pertaining to the cost of the Services (other than fixed Prices agreed to prior to performance of the Services) and Consultant's applicable tax records shall be open at all reasonable times for inspection or audit by DLC or its representative(s). DLC or its representative(s) shall at reasonable times have access to the premises, materials, instructions, working papers, plans, drawings, specifications, memoranda and other information of Consultant pertaining to the Services. All Consultant's purchase orders or contracts with subcontractors shall provide that DLC or its representative(s) shall have the right to audit subcontractors' charges to Consultant. DLC's rights under this Article shall terminate five (5) years after Acceptance of the Services.

**15. NONSOLICITATION**

Neither party may solicit, attempt to solicit or hire any employee or independent contractor of the other party involved in the performance of any Work under the Purchase Agreement, without the other party's prior written consent, during the duration of this Agreement and/or within twelve (12) months after the termination hereof. In the event of a violation of this provision, in addition to any remedies available at law or in equity, the aggrieved party may, at its own option, either recover damages in the amount of seventy (70) percent of the annual salary of the solicited employee ("liquidated damages") or seek injunction to prevent the employee from working for the breaching party in any capacity along with any attorney's fees and costs spent in the course of seeking such injunction. This provision shall survive any termination of the Purchase Agreement.

**16. SECURITY PROTOCOLS**

Consultant represents and warrants that its responses to the Duquesne Light Holdings, Inc. Information Security Questionnaire for Data Sharing, if required by DLC to be completed, contain accurate information relating to Consultant's systems, processes and procedures as of the date of this Agreement. Consultant shall promptly notify DLC in the event of any changes to Consultant's systems, processes and procedures after the execution of this Agreement. Any additional privacy and security addenda referred to in the Purchase Order shall be incorporated into this Agreement as though set forth in full in this Agreement.

**17. INSURANCE**

Consultant shall properly maintain the following coverage: Statutory Workers' Compensation Insurance in full compliance with the Workers' Compensation and Occupational Disease Acts of each and every state in which Services are to be performed, if applicable; Employer's Liability Insurance with a limit of not less than \$5,000,000; Professional Liability Insurance with a single limit of not less than \$5,000,000 per

occurrence and \$20,000,000 aggregate; Excess Umbrella Liability Insurance with a single limit of not less than \$10,000,000 per occurrence and \$30,000,000 aggregate; Automobile Liability Insurance covering all owned, hired and non-owned vehicles with a combined single limit of not less than \$2,000,000 per occurrence. Consultant shall provide DLC with a Certificate of Insurance specifically evidencing the coverages required above, naming DLC as an additional insured, except under the Professional Liability and Workers' Compensation Policy, and stating the policy numbers and the inception and expiration dates of all policies. The Certificate of Insurance shall also provide for thirty (30) days' prior written notice to DLC in the event of cancellation or any material alteration of any policy. If Consultant's insurance provider will not or cannot provide prior written notice to DLC, Consultant shall provide notice to DLC immediately upon cancellation or material alteration of any policy. The Certificate of Insurance shall be furnished to and/or be on file with DLC prior to commencement of any Services under this Agreement by Consultant or any of its subcontractors. Consultant's obligation to maintain insurance shall not in any way limit its liability under this Agreement in any manner. If any of the Services shall be performed by subcontractors, Consultant shall ensure that such subcontractors maintain insurance levels at amounts equal to or exceeding the above requirements and that DLC is furnished Certificates of Insurance as detailed above for each subcontractor prior to commencement of work by such subcontractor.

#### **18. TAXES**

DLC shall provide to Consultant upon Consultant's request a tax exemption certificate for all taxes which become due under Pennsylvania sales and use tax laws, except for taxes that Consultant is required to pay under such laws. Upon DLC's request, Consultant shall provide evidence satisfactory to DLC of the payment of any taxes which Consultant is required to pay. Consultant shall assume and pay all other taxes. Consultant shall provide to DLC such additional information as DLC may request to facilitate the determination of taxes for which DLC is responsible.

#### **19. CONFIDENTIAL/PROPRIETARY INFORMATION**

A. Consultant agrees to treat as confidential and proprietary, and not to disclose to any third party, any of DLC's information which is not generally known to the public, or which is otherwise identified as confidential or proprietary in nature, including without limitation personal information of DLC's customers, and to exercise the same care to prevent the disclosure of such information as Consultant exercises to prevent disclosure of its own proprietary and confidential information; however, Consultant may disclose such information as required by law, but not without first giving prompt written notice to DLC and allowing DLC the opportunity to contest the disclosure of such information before the applicable court or tribunal. DLC's information shall be utilized by Consultant only in connection with performance of its obligations under this Agreement. Consultant acknowledges and agrees that the existence and nature of this agreement are confidential information of DLC.

B. Subject to any specific limitations set forth in a Statement of Work, DLC shall have the unrestricted right to use all information which Consultant and its employees and agents provide to DLC in the performance of this Agreement. Consultant shall ensure that all of its employees and agents who perform Services for DLC are bound by the provisions of this Article ~~19~~<sup>19.19</sup>.

C. Consultant agrees that its services must be in compliance with the North American Electric Reliability Corporation's (NERC) Standard CIP-004-3 (the "CIP Standard"). The CIP Standard, requires, among other things, that DLC train and perform a personnel risk assessment on all individuals (including contractors and service vendors) with unescorted physical access or cyber access to DLC's Critical Cyber Assets, as defined in the CIP Standard, prior to granting access to such assets. If Consultant requires unescorted physical and/or logical access to DLC's Critical Cyber Assets to perform the services hereunder, Consultant employees or subcontractors with such access must undergo DLC training and personnel risk assessment and/or Consultant must send to DLC verification that these employees or subcontractors have met the requirements of the CIP Standard. In addition, under the CIP Standard, Consultant has an ongoing

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obligation to immediately notify DLC of any changes in the status of Consultant employees or subcontractors with unescorted access, including suspension, termination (including for cause terminations) or criminal activity that would be considered a potential concern to the reliability of DLC's operations and security. Failure to comply with the requirements of the CIP Standard or the failure to notify DLC of any status changes with respect to Consultant employees or subcontractors who have access to DLC's Critical Cyber Assets will constitute an immediate default by Consultant hereunder without opportunity to cure and the exercise by DLC of any available remedies.

**20. PUBLICITY**

Consultant shall not use DLC's name nor issue any publicity releases, including but not limited to news releases and advertising, relating to this Agreement without the prior written consent of DLC.

**21. FORCE MAJEURE**

Neither party shall be liable for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to causes beyond its reasonable control, including but not limited to, acts of God, public enemy or government, riots, fires, bomb threats, natural catastrophe, strikes or epidemics. In the event of such failure or delay, the date of performance shall be extended for a period not to exceed the time lost by reason of the failure or delay; provided that DLC may terminate this Agreement if the period of failure or delay exceeds fifteen (15) days without further liability or obligation to Consultant except with respect to amounts due and owing in connection with an undisputed invoice issued prior to the force majeure event. DLC shall have no obligation to make any payments to Consultant during the period of failure or delay. Each party shall notify the other promptly of any failure or delay in, and the effect on, its performance.

**22. ASSIGNMENT**

Consultant shall not assign this Agreement, in whole or in part, nor contract with any subcontractor for the performance of the same or any of its parts, without first obtaining DLC's written consent. DLC's consent shall not be construed as discharging or releasing Consultant in any way from the performance of the Services or fulfillment of any obligation under this Agreement, and Consultant specifically acknowledges and agrees that it shall remain fully liable hereunder regardless of whether it has subcontracted all or any portion of such obligations.

**23. KEY PERSONNEL**

The Services shall be performed by Consultant's key personnel if named in this Agreement, and no other person shall be substituted without the prior written approval of DLC. Consultant shall replace any of its key personnel to whom DLC reasonably objects, and any replacement shall be subject to the prior written approval of DLC.

**24. CONFLICTS OF INTEREST**

Consultant shall not perform work for others or have any other interest that directly or indirectly conflicts with the interests of DLC. By entering into this Agreement with DLC, Consultant represents that it presently has no such conflicting interest. Consultant shall notify DLC promptly upon learning of any conflicting interests. In the event of any conflict of interest, DLC may terminate this Agreement without any further obligation to Consultant and will be entitled to recover from Consultant all damages and expenses incurred by DLC as a result of such conflict.

**25. REPORTS**

Consultant shall furnish oral and/or written reports to DLC from time to time as requested by DLC or set forth in a Statement of Work. Such reports shall be sufficient to apprise DLC of the status of the Services and of the progress being made. At the completion of the Services, Consultant shall provide a final report, including the results achieved and appropriate recommendations.

**26. MBE/WBE**

It is the policy of DLC to stimulate the growth of Certified Minority and Women Business Enterprises (MBEs and WBEs) by encouraging their participation in DLC's procurement activities and by affording them an equal opportunity to compete for DLC's procurements. Consultant agrees to carry out this policy to the fullest extent consistent with the requirements of this Agreement (1) through the award of subcontracts to MBEs and WBEs or (2) if Consultant is a MBE or WBE, through the use of its own forces. Consultant shall include this policy as a provision in all subcontracts.

**27. SAFETY**

Consultant shall take, use, provide and make all proper, necessary and sufficient precautions, safeguards and protections against the occurrence or happening of any accidents, injuries or damages to any persons or properties arising from the performance of the Work covered by the Purchase Agreement, including (without limiting Consultant's duty hereunder) such precautions, safeguards and protections as the DLC representative may direct.

**28. NOTICES**

Any required notice under this Agreement shall be in writing and sent to the Consultant and DLC at their respective addresses set forth hereinabove.

**29. CONSULTANT AUTHORITY/INDEPENDENT CONTRACTOR STATUS**

A. The Consultant has no authority, express or implied, to commit DLC in any way to perform in any manner or pay money for any Services or materials or any other costs, other than as provided in this Agreement.

B. Consultant shall operate as an independent contractor in the performance of this Agreement and not as an agent or employee of DLC. Consultant shall ensure that neither it nor its agents or employees shall act or hold themselves out as agents or employees of DLC. Consultant shall have complete control of its agents and employees engaged in the performance of the Services. Consultant shall be solely responsible for the payment of all taxes including without limitation, Federal, state or local income taxes and all employment and disability insurances, Social Security and other similar taxes.

**30. CUMULATIVE REMEDIES**

All rights and remedies of DLC in this Agreement shall be cumulative and in addition to all other remedies allowed at law or in equity.

**31. PRIORITY OF DOCUMENTS**

In the event of conflict among the various documents of this Agreement and unless expressly provided in any Statements of Work, this Agreement shall be given priority.

**32. SEVERABILITY**

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal or otherwise unenforceable, that finding shall not invalidate the whole Agreement and the remaining provisions shall remain in full force and effect, and such invalid provisions shall be deemed to be modified to be enforceable to the fullest extent permitted by law.

**33. SURVIVAL**

The obligations and rights of the parties pursuant to the Assignment, Liens, Warranty, Confidential/Proprietary Information, Disclaimer of Consequential Damages, Disputes, Taxes, Publicity, Survival, Governing Law/Jurisdiction, Indemnification, Intellectual Property Indemnification, Ownership Rights, Conflicts of Interest and Job Cost Accounts and Information, Audits Articles shall survive the expiration or early termination of this Agreement.

**34. LAWS, CODES, RULES, REGULATIONS**

A. Consultant and its subcontractors at their own expense shall obtain all necessary licenses and permits and shall otherwise comply with all applicable federal, state and local laws, statutes, ordinances, codes, rules and regulations relating to performance of the Services, including but not limited to safety, environment, labor standards and workers' compensation.

B. Consultant and its subcontractors shall also comply with the following clauses incorporated by reference into this Agreement: Equal Opportunity Clause, 41 CFR 60-1.4; Affirmative Action for covered Veterans, 41 CFR 60-250.4; and Affirmative Action for Individuals with disabilities, 41 CFR 60-741.4 and Executive Order 13201.

C. Consultant and its subcontractors shall also comply with DLC's policies, rules and procedures in effect from time to time and provided to Consultant, including without limitation, the DLC Contractor Code of Conduct as it may be amended from time to time.

**35. DRUG TESTING**

In the event that any Services are to be performed on DLC's property, Consultant shall maintain a drug testing policy that is satisfactory to DLC, in its sole discretion. Consultant shall provide such policy to DLC prior to beginning performance of any Services hereunder. DLC reserves the right to impose any additional testing requirements it deems appropriate due to the nature of the Services to be performed, in its sole discretion. Consultant shall, during the term of this Agreement and for a period of one (1) year thereafter, deliver any information required by DLC to insure compliance hereunder, including without limitation, testing results of any Consultant employee who has been, or may be, on DLC's property. Consultant shall preserve all drug testing results and related information during the term of this Agreement and for a period of at least three (3) years following termination of this Agreement. DLC's approval of such policy shall not give rise to any liability of DLC, and Consultant shall indemnify, defend and hold harmless DLC with respect to any claim hereunder.

**36. BACKGROUND CHECKS**

Consultant shall conduct background investigations (BI) as required in the Contractor Code of Conduct for all Consultant's or its subcontractor's employees where the scope of work to be performed will require: (i) a presence for a single period of five (5) working days or more upon property owned or leased by DLC or any of the DLC's subsidiaries or affiliates and/or (ii) access to DLC's business critical infrastructure. In addition, BI requirements may be applied to other personnel at the sole discretion of DLC. DLC has the right to require proof of such investigation and satisfactory compliance with the minimum criteria, which shall be readily available for DLC's inspection. DLC requires that Consultant maintain records of investigations for a minimum of five (5) years after the Statement of Work is completed. Consultant is solely responsible for ensuring that its employees assigned to the Statement of Work meet or exceed the requirements of this section. Consultant must have all background investigations completed prior to the commencement of a Statement of Work or, in the case of emergencies and with the written permission of DLC, may be permitted to start Work while the investigations are being conducted. (If an emergent need requires delay in processing, all background investigations must be completed within ten (10) working days of the start date.)

**37. GOVERNING LAW/JURISDICTION**

This Agreement shall be governed by, enforced and interpreted in accordance with the substantive laws of the Commonwealth of Pennsylvania, without regard to its internal conflict of law principles. Any litigation shall be filed and exclusively pursued in either state or federal court in Pittsburgh, Pennsylvania, and the parties hereto waive any claim based on inconvenient forum or venue, or lack of jurisdiction.

**38. WAIVER**

A party's failure to enforce a provision at one time shall not constitute a waiver of compliance with such provision, and a party's waiver of a breach of any provision contained herein shall not constitute a waiver of any other breach or of any subsequent breach of the same provision. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless made in writing and signed by Consultant and DLC. A party's failure to object to terms contained in any subsequent communication from the other party (whether in a purchase order or order acknowledgement or other communication) will not be a waiver or modification of the terms set forth herein.

**39. ENTIRE AGREEMENT**

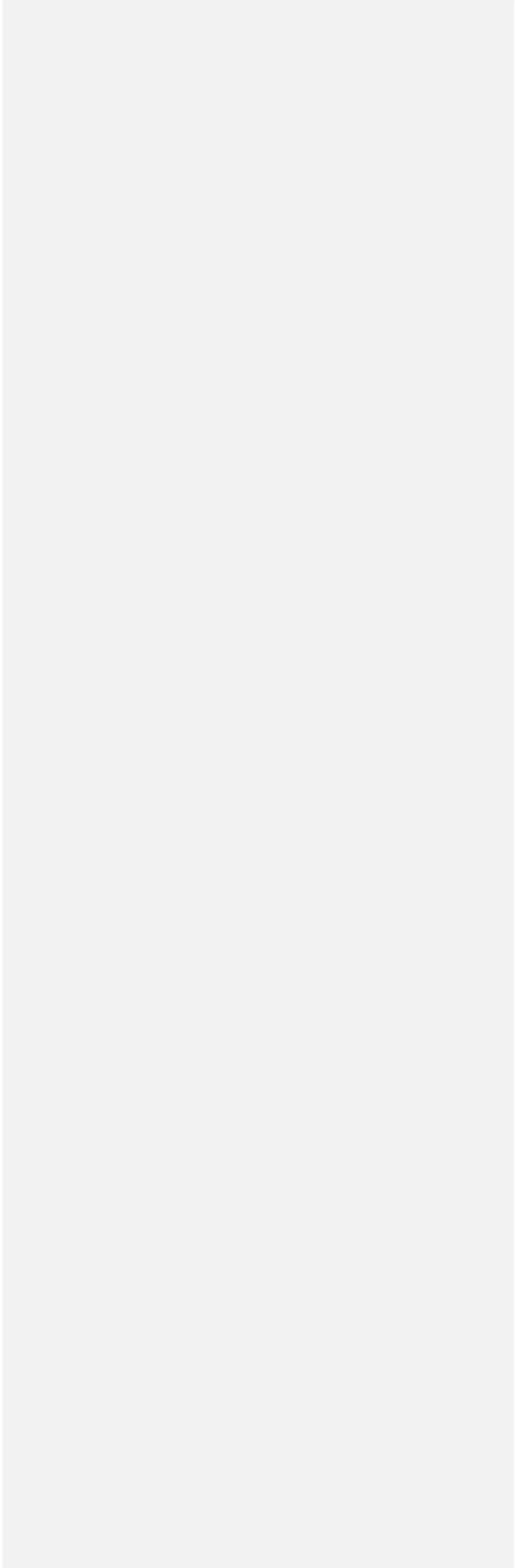
This Agreement contains the entire agreement between the parties with respect to the subject matter and supersedes any and all prior oral or written agreements.

DUQUESNE LIGHT COMPANY \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_





# AGENDA

<b>Date:</b>	Wednesday, July 25 <sup>th</sup> , 2018 02:30 – 03:30 PM ET
<b>Topic:</b>	Third Party Attachments (PA 82875) Pre-Bid Meeting
<b>Location:</b>	Teleconference: (412) 393-3110 PIN 735419
<b>Attendees:</b>	<u>DLC</u> Robert Frantz, <i>Supervisor Third Party Attachments</i> Danielle Delaney, <i>Category Strategist</i>

1. Safety Message
2. Introductions
3. Commercial / Power Advocate Overview
4. Scope Review
5. Q & A



# **Duquesne Light Company**

**Request for Proposal (RFP)  
Power Advocate Event 82875  
Instructions to Bidders**

## **RFP Third Party Attachments**

**July 20, 2018**

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## 1.0 Overview

### 1.1 Background

Duquesne Light Company (“DLC”) is the leading electric utility provider in Western PA serving more than 500,000 residential customers and nearly 150,000 commercial and industrial customers. Headquartered in Pittsburgh, Pennsylvania DLC employs approximately 1,400 employees. DLC distributes electric energy to approximately 610,000 commercial, industrial, and residential customer meters, which account for approximately 579,000 service accounts, in the City of Pittsburgh and throughout Allegheny and Beaver counties, a service territory of approximately 817 square miles. The Company is held by a consortium of private equity investors that own all of the common shareholdings of the parent firm, Duquesne Holdings LLC.

DLC’s interest is in providing its customers with the best products and services at the most affordable rates possible. Your participation will be evaluated principally on your ability to help DLC reach its objectives.

### 1.2 Proposal Purpose

DLC is pleased to invite you to respond to its Request for Proposal (RFP). The intent of this RFP is to solicit information from qualified parties (“Bidders”) for Third Party Attachments. DLC is modernizing its electric distribution system to ensure safe and reliable electricity for its customers. The bid includes the engineering services for the third party attachment process and requirements described in the uploaded document titled: “DLC Third Party Request for Proposals.”

Bidders shall prepare their bid submitting Fixed Pricing (per poll) for the proposed scope of work, including any applicable taxes, where requested for the work. Your responses should reflect all labor, materials, and equipment to perform operations necessary to complete the Work as required by the bid documents, including applicable taxes.

*If supplier has an alternative proposal, it can be uploaded with in the “Upload documents” tab.*

If it is to be considered, your response must be complete in all respects, it must conform to the specific instructions herein, and it must be received by DLC in accordance with the RFP timetable – per Table 1 within Section 4. Bidder shall supply the following items in their RFP package submittal in order for their proposal to be considered for acceptance:

- *Project Approach Section* including description of the overall approach for the project, i.e. the execution plan.
- *Project Team Organization Section* including description of proposed project organization, staff assignments and qualifications of key personnel
- *List of Assumptions*, including proposed supplied material, tools, specialty equipment, outages, third party requirements, temporary electric power requirements, schedule risks, weather allowances, and any other inclusions and/or exclusions as pertaining to the project.

**Bid Validity:** Bids shall be open to acceptance and remain irrevocable and valid for ninety (90) days from the Bid Closing.

**Contract Acceptance:** Awarded Bidder shall accept a contract for the Work covered by their proposal, in accordance with the Contract Documents within ten (10) days after notification of award.

### **1.3 Bid Event Coordinator**

The Bid Event Coordinator for this sourcing event is Danielle Delaney (ddelaney@duqlight.com) of Duquesne Light Company. Responses to any questions and clarifications will be coordinated through the Bid Event Coordinator by utilizing the “Messaging” Tab on the Power Advocate Platform, and will be directed automatically to the Bid Event Coordinator. *A Bidder and its representatives are NOT permitted to contact DLC employees, contractors, agents, affiliates or other Bidders regarding matters related to this RFP.* No communication of any kind shall be permitted with other DLC employees or subcontracted entities regarding this RFP.

## **2.0 Project Overview & Basic Schedule**

### **2.1 Project Overview**

1. This work scope covers Third Party Attachments, per documents located on the Power Advocate platform.
2. By submitting a proposal, Bidder will be deemed to have reviewed and agreed to the Duquesne Light Company specific requirements for Personal Protection Equipment (PPE) for work within/on Duquesne Light Company facilities.

Personal Protective Equipment – All contractor personnel working within Duquesne Light Company facilities on overhead and underground distribution lines will be required to follow the PPE requirements for DLC Power Delivery Employees. In general this requires the use of specific types of clothing, footwear and headgear, as well as a list of prohibited items and garments. Protective clothing shall be flame resistant (FR) per ASTM STD F1506. Footwear shall be con-conductive and comply with ANSI Std Z-41. In addition all contractor employees shall use the same model, style and color protective clothing and headgear so they may be easily identified while onsite. Section 2.03 Personal Protective Equipment per the Duquesne Light Company Safety Manual will govern the use of protective clothing, footwear and headgear and so on. (When working outside of existing energized substation, FR clothing is not required).

### **2.2 Contractor Invoice due Dates Schedule**

1. The Invoicing Procedures Document covers Contractor Invoice Procedures which shall apply to the Successful Bidder. Contractor Invoice Due Dates Schedule – In order to meet the requirements of the DLC Accounts Payable Department, the following Contractor Invoice Due Dates have been established and will be utilized by all Contractors. These dates have been selected to allow sufficient time for Internal DLC processing & Approval of invoices prior to the scheduled corporate payment dates of the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays of each month. Adherence to these dates will minimize the net payment times to the contractors.

January 5, 2018
January 19, 2018
February 2, 2018
February 16, 2018
March 2, 2018
March 16, 2018
April 6, 2018
April 20, 2018
May 4, 2018
May 18, 2018
June 1, 2018
June 15, 2018
July 6, 2018
July 20, 2018
August 3, 2018
August 17, 2018
September 7, 2018
September 21, 2018
October 5, 2018
October 19, 2018
November 2, 2018
November 16, 2018
December 7, 2018
December 21, 2018

## 3.0 Instructions to Bidders

### 3.1 RFP Response Instructions

Responses and supporting attachments must be submitted electronically via the internet utilizing the Power Advocate Platform only. You may register for, or log on to, the Power Advocate Platform via Power Advocate's website: [www.poweradvocate.com](http://www.poweradvocate.com).

**Only information received via proper completion of a datasheet on the Power Advocate Platform or uploaded to the Power Advocate Platform in PDF or Word or Excel format will be considered in the evaluation of this RFP. Any information included in any other documentation, uploaded or included in any other section of the website or mailed/emailed directly to DLC is considered a violation and response for disqualification from consideration.**

Bidders are solely responsible for examining the complete RFP, including all documents, instructions, datasheets, specifications and any addenda to these documents and for responding in full compliance with these instructions.

A supplier with an existing business relationship with DLC is permitted to discuss current business matters with typical and appropriate DLC contacts, but shall refrain from discussing this RFP. All

communications with respect to this RFP must flow through the Power Advocate Platform. *Any supplier (incumbent or otherwise) that attempts to contact any other DLC personnel during this period, for reasons other than to discuss current business matters will be considered in violation of this restriction and risks having their RFP response disqualified.*

DLC will not provide any warnings to a Supplier prior to disqualifying its response, and will contact the Supplier in writing, referring this section of the RFP and the instance of the violation.

All clarifying questions pertaining to information within or related to the RFP shall be directed to:

Bid Event Coordinator: Danielle Delaney  
 DDelaney@duqlight.com  
 Phone: 412.393.8025

All questions concerning the use or operation of the Power Advocate Platform shall be directed to:

Power Advocate: support@poweradvocate.com  
 Phone: 857.453.5800

All Bidders must complete, on time, the Commercial (Tab #3) and Technical (Tab #4), for their RFP response to be considered. If a Bidder wishes to provide additional information or chooses to expound upon any of their original bid with options, they may upload documents in PDF, Word or Excel format under Tab #2 (Upload Documents) on the Power Advocate Platform.

Do NOT inter-mingle commercial information with your technical information.

It is each Bidder's responsibility to maintain diligence in monitoring the posting of Questions and Answers to the Power Advocate Platform as well as any additional information uploaded within the Platform. Please have anyone you believe to be critical to your team register with Power Advocate at [www.poweradvocate.com](http://www.poweradvocate.com).

If you are a distributor or manufacturer's representative of another company, please register under your corporate name and identify the company that you are representing.

### **3.2 General Guidelines**

DLC reserves the right to make changes to this RFP by issuance of one or more addenda or amendments and to distribute additional clarifying or supporting information relating thereto. DLC may ask any or all Bidders to elaborate or clarify specific points or portions of their submission. Clarification may take the form of written responses to phone calls or in-person meetings for the purpose of discussing the RFP, the responses thereto, or both.

It is solely the responsibility of each Bidder to ensure that all pertinent and required information is included in its submission. DLC reserves the right to determine at its sole discretion whether a submission is incomplete or non-responsive.

Bidders should clearly state all assumptions they make about the meaning or accuracy of information contained in this RFP. If you do not ask questions or clarify any assumptions, DLC will assume that you agree with and understand the requirements in the RFP.

### 3.3 Additional RFP Guidelines and Terms

Please carefully review the following guidelines and terms that apply to this RFP. Submission of the Intent to Respond field on the Power Advocate Platform will be interpreted as an understanding and acceptance of these guidelines and terms:

1. **Disclaimer** – This RFP is not a contract offer by DLC. DLC reserves the right to discontinue or modify the RFP or RFP process at any time, and makes no commitments, implied or otherwise, that this process will result in a business transaction or negotiation with one or more suppliers.
2. **Conditional Bidder** – All Bidders are considered conditional until DLC has reviewed, evaluated, and approved a Bidder's technical and financial capabilities to perform.
3. **Right of Rejection / Acceptance** – DLC reserves the right to reject any or all responses, to accept any response or to select any combination of responses. DLC reserves the right to waive any irregularity contained in any response. No response will be accepted unless DLC specifically invited the Bidder to respond.
4. **Right of Withdrawal** – Responses may be withdrawn by Bidders at any time prior to the RFP Response Due Date. A response may not be withdrawn after the RFP Response Due Date.
5. **Right to Disqualify** – DLC reserves the right to disqualify any Bidder for any reason, including an incomplete response and an unsatisfactory qualification evaluation, up to the time of contract award.
6. **Award of Contract** – To the extent that a contract is awarded, it will be awarded to the supplier(s) deemed best suited to meet DLC's needs at the sole discretion of DLC team. DLC reserves the right to award a contract to one supplier, to split it among several suppliers, or to make no award to any supplier.
7. **Volumes and Business Profile** – All volumes and business profiles are projections only. Both volumes and business profiles may change due to changes in the DLC business strategy or external business conditions.
8. **Legal Authority** – The responses and any proposals sent in response to this RFP must be signed by a person having legal authority to bind the Bidder's organization.
9. **Supplier Selection** – Following the analysis of all RFP responses received, DLC will assess submissions on the basis of technical competence, safety record, track record, and price. Each Contractor whose bid is made in accordance with these Bidding Instructions will be given careful and objective consideration. DLC nonetheless reserves the right to reject any or all bids and enter into an agreement with whomever it chooses including other than the low bidder. Competitive bidding and pricing information will be treated as confidential.
10. **No representations or warranties** – DLC makes no representations or warranties regarding the accuracy or completeness of the information contained in this RFP, including the attachments. Each Bidder is responsible for making its own evaluation

of the information and data contained in this RFP and in preparing and submitting responses to this RFP.

11. **Proposal Costs** – All Costs incurred by a Bidder and its team members in connection with this RFP, including any costs incurred in providing or obtaining additional information to or from DLC, shall be borne by the Bidders and its team members. DLC shall not be responsible for any such costs.

## 4.0 RFP Schedule

### 4.1 RFP Milestone Schedule

All responses must be received by the date set forth in the milestone schedule – Table 1 within this section. Any exceptions to the response date will be at the discretion of the DLC. DLC may, in its sole discretion, extend the due date for all Bidders, if such action is necessary, to satisfy the requirements of the RFP process.

The major milestones of this RFP process are summarized as follows:

**Table 1:**

<b>RFP Event</b>	<b>Date</b>
Bid Open	7.20.2018
Pre-Bid Meeting	7.25.2018
Supplier Questions Due	8.1.2018
Answers to Questions Posted	8.3.2018
Close RFP	8.6.2018

## 5.0 Appendices to the RFP

Available along with other documents on Tab #1 (Download Documents) of Power Advocate Platform:

<b>Document Type</b>	<b>Document Description</b>
Commercial	RFP Bidding Instructions
Commercial	Pre-Bid Meeting Agenda
Commercial	Engineering MSA
Commercial	Contractor Code of Conduct
Commercial	Prebid Q&A
Technical	DLC Third Party Request For Proposals

- Please provide clear definition on the activities that are associated with the requested billable items. Several variations of terms are used in the pricing worksheet and throughout the scope of work document, and it is not clear how they align together.
  - For example,
    - Data Collection (Pricing Sheet) vs. Pre-Construction Inspection (RFP Scope of Work)
  - All activities associated with a new attachment being permitted onto a DLC owned pole are to be considered billable items. This includes the selected engineering vendor performing:
    - Review of any documentation for the permit application
    - All data collection activities
    - Permit/Make-Ready Engineering for all Minor and/or Major Make-Ready needed
      - Pole loading as needed, determined by vendor or DLC
    - Granting Authorization to Attach
    - Managing all Construction aspects of the needed Make-Ready for the new attachment
    - Managing financial transactions associated with the permit process and construction.
- Will remote access be available for DLC systems? This includes WAM, GIS, Varasset and all other systems DLC expects the engineering company to utilize and update
  - Yes, remote access will be provided to the necessary systems.
- Will DLC award all work to a single vendor? Or does DLC intend to issue multiple awards?
  - DLC plans to award all work to a single vendor but this is dependent on the responses received from this proposal.
- Please confirm a Pole Loading Analysis is required for every pole?
  - Pole Loading Analysis is required when the engineering vendor or DLC deems necessary.
- Please confirm a PE stamp is required all make ready construction (both Major and Minor)? Does this apply at the pole level or does the entire application require review and PE Stamp
  - Yes a PE Stamp is required for all Minor and Major Make-Ready designs. The PE needs to be actively registered and licensed in the State of PA.
- There is not a billable for post-construction inspection, should there be? If so what is the frequency DLC requires.
  - Post-Construction is currently additional scope. Please include a per-pole estimate to complete a Post-Construction analysis on every pole permitted.
- Where should the cost of as-built drawings be included?
- Can DLC provide completed, example design packages for Major and Minor Make Ready?
  - DLC does not currently perform Minor Make-Ready designs. Major Make Ready Designs will be included within PowerAdvocate.
- Can DLC provide example completed permit engineering package – a completed application review?
  - DLC does not currently have an application with all the required information listed in the SOW.

- Please define the difference between billable items Make Ready Engineering and Make Ready Engineering Construction.
  - All Make-Ready Engineering billable items should include any effort needed to complete design and permitting for Make-Ready Construction.
  - Make-Ready Construction items should include any effort needed to complete the construction based on the Make-Ready Engineering Design. This should include procurement of any items and materials agreed upon with DLC.
- Please provide an example application for attachment which includes the details that the applicant provides with respect to desired pole locations.
  - DLC anticipates this RFP to completely alter the process for permitting attachments onto our assets. At this time we are open to best practices provided by the vendor. DLC envisions Communication Companies only providing pole numbers or geographical information and installation specifications for their proposed attachment.
- Does this RFP cover all attachment request, including wireless antenna and other requests? Or is it simply for wired attachments.
  - Yes, all attachment requests will be included within this RFP. This includes wireless antennas, power supply equipment, security devices, and any other equipment the TPA Department permits.
- Does this RFP cover only new attachment requests? Or does this cover overlash notifications and requests as well?
  - Yes, overlash notifications are considered to be included in this RFP
- From yesterday's pre-bid meeting, when can we expect the list of approved distribution construction contractors?
  - After further clarifications, we will not be providing this list. We would like for the supplier to provide the construction contractor they would recommend using which will then be reviewed by DLC
- Also are you able to provide a historical percentage of third party attachment requests that require major make-ready construction activities?
  - In a review of around 4000 poles, around 150 Major Make-Ready activities have been identified for construction.
  - Currently, DLC does not perform Minor Make-Ready construction activities and has allowed Communication Companies to utilized qualified contractors to perform this work. DLC plans to incorporate Minor Make-Ready construction activities as part of this RFP.
- Can you provide a breakdown of the tasks associated with Permit Engineering vs Make Ready Engineering?
  - Permit Engineering and Make-Ready Engineering could be performed at once. Permit Engineering includes Data Collection Activities. Within the RFI, these two portions were separated to understand if companies would be able to facilitate both. Currently, Permit Engineering is mainly performed by Communication Companies and Make-Ready Engineering is completed by DLC Distribution Engineering and qualified engineering contractors. DLC would like to have both of these functions completed by 1 vendor as part of this RFP.
- What's the average count of poles per application expected?
  - Currently, only 30 poles may be applied for on 1 application. DLC is open to altering this practice if adequately proposed.

## CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“Agreement”) executed this \_\_\_\_\_, 20\_\_\_\_, is by and between Duquesne Light Company (“Duquesne”) and \_\_\_\_\_, a seller of goods and/or contractor for services (“Supplier”).

WHEREAS, Duquesne intends to disclose to Supplier certain Confidential and Proprietary Information (defined below), in connection with the provision of goods and/or services by Supplier to Duquesne (the “Work”), both orally and in writing, initially in the Request For Quotation and later during negotiations and under the Purchase Agreement with the Supplier.

WHEREAS, Confidential and Proprietary Information shall mean all information received in any form or in any medium both oral, in writing and by demonstration, and whether disclosed on, before or after the date of the Agreement, whether or not indicated to be Confidential and Proprietary Information or marked as such at the time of disclosure, pertaining to Duquesne or the Work.

NOW, THEREFORE, Supplier, in consideration for the disclosure of Duquesne Confidential and Proprietary Information to Supplier and the opportunity to be considered for a Purchase Agreement with Duquesne, intending to be legally bound, agrees that any Confidential and Proprietary Information received by Supplier from Duquesne shall be governed by the following terms and conditions:

1. For and in consideration of the disclosure and divulgence of the Confidential and Proprietary Information by Duquesne, Supplier shall maintain the information secret and confidential and exercise the same care, but no less than reasonable care, to prevent the disclosure of such information as it exercises to prevent disclosure of its own proprietary and confidential information.
2. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN ANOTHER AGREEMENT BETWEEN THE PARTIES, THE CONFIDENTIAL AND PROPRIETARY INFORMATION IS PROVIDED ON AN “AS-IS” BASIS WITHOUT ANY WARRANTY OF ANY KIND, IMPLIED OR OTHERWISE, INCLUDING WITHOUT LIMITATION ALL WARRANTIES REGARDING ACCURACY, COMPLETENESS, CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.
3. Supplier shall not use the Confidential and Proprietary Information for any purpose other than in connection with the performance of the Work without prior written approval of Duquesne. Supplier expressly agrees that without such prior approval, Supplier shall not use any of the Confidential and Proprietary Information for any party other than Duquesne.
4. Supplier shall not make copies, excerpt or in any way reproduce the Confidential and Proprietary Information, except as may be specifically required in furtherance of the performance of the Work for Duquesne without the prior written approval of Duquesne. Where reproductions are permitted in accordance with this paragraph, each reproduction shall be appropriately marked to show that it contains Confidential and Proprietary Information of Duquesne and shall contain all applicable copyright notices and proprietary legends, if any. Supplier shall keep all such reproductions separately from its own documents and only at its usual premises.
5. Duquesne retains all rights, title and interest in and to the Confidential and Proprietary Information.
6. Supplier warrants that, if it is requesting or receiving Confidential and Proprietary Information relating to:
  - a. the Bulk Electric System (“BES”) and BES Cyber Assets and BES Cyber Systems, as defined by the North American Reliability Corporation (“NERC”);

- b. information relating to Critical Energy Infrastructure Information, as defined by the Federal Energy Regulatory Commission; or
- c. any other information relating to or describing Duquesne's electrical distribution and transmission infrastructure, including but not limited to the information on Duquesne's transmission stations and substations and their associated primary control centers, that if rendered inoperable or damaged as a result of a physical attack could result in widespread instability, uncontrolled separation or cascading within an interconnection as defined under PJM Interconnection LLC or any other regional transmission organization's and/or NERC's Reliability Standards

(collectively, the "Critical Infrastructure Information"), it and any employee, agent, representative or subcontractor who will have access to the Critical Infrastructure Information shall have received all required approvals from any applicable governmental agencies or other entities prior to accessing such Critical Infrastructure Information.

- 7. Supplier must not remove the information relating to Critical Infrastructure Information from the Duquesne site, unless expressly authorized by Duquesne in writing.
- 8. Supplier shall immediately notify Duquesne of any changes in the status of Supplier employees or subcontractors with access to Confidential and Proprietary Information, including suspension, termination (including for cause terminations) or criminal activity that would be considered a potential concern to the reliability of Duquesne's operations and security. In the event an employee or a subcontractor ceases to be employed by the Supplier, Supplier must immediately terminate the employee's or subcontractor's access to Confidential and Proprietary Information and shall cause such employee or subcontractor to immediately return or dispose of the Confidential and Proprietary Information. After the termination of the employment or contract, Supplier shall ensure that its former employee or subcontractor will remain bound by the terms of this Agreement.
- 9. Upon the written request of Duquesne, Supplier shall either return or destroy, in the manner reasonably required by Duquesne, the Confidential and Proprietary Information and all reproductions thereof in accordance with Duquesne's instructions.
- 10. Nothing in this Agreement shall affect Supplier's right to use and/or disclose to others any and all Confidential and Proprietary Information or any part thereof which:
  - a. Is documented as being already known to the Supplier without obligation of confidentiality;
  - b. Is or becomes publicly known through no wrongful acts of the Supplier;
  - c. Is contained in any issued patent or becomes published or otherwise generally known in Supplier's trade through no wrongful act of the Supplier from the date it becomes published or generally known;
  - d. Is received from a third party without restriction and through no wrongful act of the Supplier; or
  - e. Is approved for release by written authorization of Duquesne.
- 11. Supplier agrees to defend, indemnify and hold harmless Duquesne for any costs and expenses, including without limitation attorneys' fees and expenses, resulting from Supplier's, its employees' or subcontractors' breach of its obligations hereunder and Duquesne's actions to enjoin such breach and/or enforce its rights hereunder.
- 12. Notwithstanding anything to the contrary in this Agreement, Supplier may disclose the Confidential and Proprietary Information if and to the extent required by law. Supplier shall give prompt notice to Duquesne of such disclosure request as far in advance as practicable prior of making disclosure and assist Duquesne in restricting any disclosure required by law.



- 13. Supplier hereby acknowledges that, due to the unique nature of the Confidential and Proprietary Information, Duquesne’s remedies at law are inadequate and that Duquesne will suffer irreparable harm in the event of breach or threatened breach of any provision of this Agreement. Accordingly, in such event, Duquesne shall be entitled to seek preliminary and final injunctive relief without a requirement to post bond, as well as any and all other applicable remedies available to Duquesne at law or in equity, including the recovery of damages.
- 14. The obligations of confidentiality hereunder with respect to any Confidential and Proprietary Information shall continue for a period of five (5) years from the date of the last disclosure of Confidential and Proprietary Information under this Agreement, except that the following Confidential and Proprietary Information shall remain subject to the confidentiality obligations indefinitely:
  - a. Critical Infrastructure Information; and
  - b. Duquesne customer or employee information or data naming or identifying a natural person such as: (a) personally identifying information that is explicitly defined as a regulated category of data under any data privacy or data protection laws applicable to Duquesne; (b) non-public information, such as a home address or email address, national identification number, passport number, social security number, driver's license number; (c) health or medical information, such as insurance information, medical prognosis, diagnosis information or genetic information; (d) financial information, such as a policy number, credit card number and/or bank account number; and/or (e) sensitive personal data, such as mother's maiden name, race, marital status, gender or sexuality.
- 15. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, except for its conflicts of law provisions. The courts of the Commonwealth of Pennsylvania shall have the exclusive jurisdiction over any disputes or controversy arising out or in connection to this Agreement.
- 16. Supplier agrees not to assign this Agreement without the prior written approval of Duquesne. Any purported assignment without such prior approval shall be null and void.
- 17. This Agreement may not be superseded, amended or modified except by written agreement between Duquesne and Supplier.
- 18. This Agreement contains the entire agreement and understanding between the parties as to the subject matter herein. In the event of conflict between the Purchase Agreement or any other agreement between the parties and this Agreement, the more restrictive provisions shall control.
- 19. Failure to enforce any provision of this Agreement, or any delay or omission exercising any right under this Agreement, will not constitute a waiver of that provision or right, or of any future enforcement of that provision or right, or of any other term of this Agreement.

IN WITNESS WHEREOF, Supplier has caused this Agreement to be executed by Supplier's duly authorized representatives as of the day and year first above written.

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Response of DLC to the Interrogatories and Requests for  
Production of Documents of NetSpeed – Set I**

26. Please provide all Communications and Documents received by DLC from pole attachers after and with respect to its June 4, 2019 DLC Communication Partner Meeting.

**Response:** As indicated in DLC’s response to #1 above, the agreements executed by other entities that attach to DLC’s poles pursuant to 47 U.S.C. § 224 are identical in all material respects to the Pole Attachment Agreement executed by DLC and NetSpeed, dated July 17, 2017. Each of those agreements contain provisions that prohibit DLC’s disclosure of Confidential Information, which includes communications between DLC and individual attachers about their agreements, or their attachments to DLC’s poles.

Responsible Witness: Robert J. Frantz, Manager, GIS & Third Party Attachments

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NetSpeed LLC

:  
:  
:  
:  
:

v.

Docket No. C-2020-3020212

Duquesne Light Company

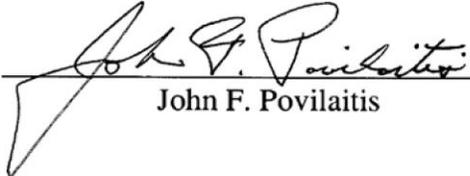
**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of the foregoing document upon the persons listed below in the manner indicated.

**Via First Class Mail and Email:**

Brett Heather Freedson, Esquire  
Lauren M. Burge, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
U.S. Steel Tower – 44<sup>th</sup> Floor  
600 Grant Street  
Pittsburgh, PA 15219  
[bfreedson@eckertseamans.com](mailto:bfreedson@eckertseamans.com)  
[lburge@eckertseamans.com](mailto:lburge@eckertseamans.com)  
*Attorneys for Duquesne Light Company*

Date: August 17, 2020

  
\_\_\_\_\_  
John F. Povilaitis