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August 31, 2020

VIA E-FILE

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201
400 North Street
Harrisburg, PA 17120

**Re: Amended Policy Statement on Diversity at Major Jurisdictional Utilities,
Docket No. M-2020-3018089**

Dear Secretary Chiavetta,

Enclosed please find the Comments of Duquesne Light Company on the above referenced matter.

Upon receipt, if you have any questions, please contact me at lbaxter@duqlight.com or 412-393-6224.

Sincerely,

A handwritten signature in blue ink, appearing to read "LBQ", with a long horizontal flourish extending to the right.

Lindsay A. Baxter
Manager, State Regulatory Strategy

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Amended Policy Statement on Diversity : M-2020-3018089
at Major Jurisdictional Utilities

**COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. INTRODUCTION

On May 21, 2020, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) issued a *Proposed Policy Statement and Order* seeking comment on proposed amendments to the existing *Policy Statement on Diversity at Major Jurisdictional Utilities*. In the Order, the Commission provided for comments to be filed within forty-five (45) days of publication in the *Pennsylvania Bulletin*. The *Proposed Policy Statement and Order* was published July 18, 2020, 50 Pa.B. 3598. Pursuant to the published schedule, Duquesne Light Company (“Duquesne Light” or “Company”) hereby submits these comments for consideration.

II. BACKGROUND

The PUC first adopted its Policy Statement on Diversity at Major Jurisdictional Utility Companies on March 24, 1995, 52 Pa. Code §§ 69.801-69.809. This policy statement encourages jurisdictional utilities to report to the Commission, on an annual basis, goals and progress towards supporting diversity in procurement and employment practices. At the February 6, 2020 Public Meeting, Chairman Brown Dutrieuille made a motion to initiate a proceeding to update the existing Policy Statement and to initiate a rulemaking for a diversity reporting requirement, with the Notice of Proposed Rulemaking to be released by December 31, 2020. In her motion, the Chairman noted that the guidelines in this Policy Statement were “groundbreaking and

progressive for that time,” but after 25 years the time is right to re-examine and “reinvigorate the Commission’s efforts to promote and implement effective diversity programs at our major jurisdictional utility companies.”

III. COMMENTS

While much has changed in the 25 years since the first Policy Statement on Diversity was adopted by the PUC, systemic racism and discrimination continue to persist in the United States, as made visible in recent events across the country and the world. Duquesne Light has committed to fostering diversity and inclusion both within the Company and in the community it serves. As part of these efforts, the Company voluntarily reports its diversity efforts to the Commission annually.

Duquesne Light is supportive of efforts to update the Policy Statement on Diversity to ensure it is contributing towards meaningful and sustainable diversity initiatives in the utility sector in Pennsylvania. The proposed edits are a step towards greater diversity and inclusion in the utility sector in Pennsylvania. While there is much work to do, the Company believes these proposed edits represent a step in the right direction. It offers these minor comments or clarifications for consideration.

A. Proposed changes to Attachment A: Demographic Composition of Workforce of Major Jurisdictional Utility.

The Company supports the proposed change to *Attachment A*:

Demographic Composition of Workforce of Major Jurisdictional Utility

Companies in reporting diversity in workforce by percentage, as compared to number of employees. The use of a percentage is a better indicator of progress as it accounts for the size of the company as well as the number of employees for

each job category and allows for better comparison year-to-year and benchmarking with peers. Duquesne Light is also supportive of the job categories used as they align with the categories used for federal reporting, via the Equal Employment Opportunity Commission’s Form EEO-1. However, it recommends that the diversity categories also be amended to match those used on the EEO-1, as has been the case in previous years. The table below shows the categories used for the EEO-1, the current Appendix A, and the Proposed Appendix A.

EEO-1	Current Appendix A	Proposed Appendix A.
White	White	White
Hispanic or Latino	Hispanic	Hispanic American
Black or African American	Black	African American
Native Hawaiian or Pacific Islander	Native Hawaiian or Pacific Islander	Asian Pacific American
Asian	Asian	Subcontinent Asian American
American Indian or Alaskan Native	American Indian	Native American
Two or More Races	Two or More Races	Two or More Races

Consistency between federal and state reporting reduces the burden on companies as well as any potential for confusion when benchmarking between federal and state reports.

B. Duquesne Light supports expanding reporting categories to include LGBTQ and Veterans in proposed changes.

The proposed changes to the Policy Statement include expansion of the categories of diversity to include LGBTQ and Veterans. Duquesne Light is supportive of this change which aligns well with its corporate diversity and inclusion policies. The Company has publicly demonstrated its support of the

LGBTQ community through participation in the Pittsburgh Pride Parade, volunteer service with organizations working with at-risk LGBTQ youth, and employee communications highlighting the contributions of noteworthy LGBTQ leaders during June of each year. Similarly, the Company annually recognizes the importance of veterans its annual employee Veterans Appreciation Luncheon, participation in the Pittsburgh Veterans Day Parade, employee volunteer activities with Veterans associations, and more. Additionally, Duquesne Light has focused recruiting efforts to attract veteran candidates to utility jobs.

Specific to LGBTQ language, in the Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa. C.S. Chapter 14 (Docket No. L-2015-2508421) Duquesne Light proposed an expansion of non-discrimination language to include protections regardless of "...gender, sexual orientation, gender expression or identity," a change which was ultimately adopted by the Commission. It applauds the PUC for similarly expanding the diversity definitions included in this Policy Statement to recognize the valuable contribution of LGBTQ individuals as well as Veterans in the utility industry.

C. Definitions using "United States citizens or legal aliens with permanent residence status" may be overly restrictive.

The proposed changes also include modifications to § 69.802 Definitions. As indicated in its comments above on Attachment A, the Company recommends that these definitions be modified to be consistent with those used by the Equal Employment Opportunity Commission for reporting on Form EEO-1. Further,

the definitions for several categories of diversity, including the definitions of African Americans, Asian Pacific Americans, Hispanic Americans, Native Americans, and Sub-continent Asian Americans, are limited to “United States citizens or legal aliens with permanent residence status.” The Company has concern that this definition may unintentionally exclude employees and contractors who contribute to a diverse utility workforce. For example, a Deferred Action on Childhood Arrival (DACA)¹ recipient is legally authorized to live and work in the U.S., but is neither a citizen nor has permanent residence status. Similarly, those who have received asylum in the U.S. are legally authorized to work in the U.S. but may not have citizenship nor permanent residency.² This is not an exhaustive list of the employees who could be excluded from diversity reporting based on a narrow definition requiring citizenship.

Beyond concerns about inclusivity, the Company has concerns with its ability to accurately report this information. The Company verifies employees’ authorization to work in the U.S., and it provides vendors the opportunity to self-certify by diversity classification. It does not ask employees or vendors for information about U.S. citizenship, nor does it feel comfortable doing so.

The Company recommends that the Commission either use the definitions used by the U.S. Equal Employment Opportunity Commission, or

¹ Deferred Action on Childhood Arrival (DACA) is a U.S. immigration policy that protects qualifying individuals who arrived in the United States prior to their sixteenth birthday protection from deportation. U.S. Department of Homeland Security. www.dhs.gov/deferred-action-childhood-arrivals-daca

² An asylee must apply for permanent citizenship (“green card”) within one year of receiving asylum. However there may be months to years before permanent citizenship is awarded during which time this individual is authorized to work in the U.S.

that the applicable proposed definitions be amended to read “United States citizens or individuals authorized to work in the United States” for ultimate inclusivity.

D. Additional Comments on Definitions

- Person with disabilities- Duquesne Light is supportive of this definition which aligns with other standardized definitions. Further, it commends the Commission for using the correct word order, recognizing that a person with disabilities is a “person” first and foremost and is not defined by having a disability(ies).
- LGBTQ- The Company’s Supplier Diversity Policy uses the term “LGBTQ or Gender Non-Conforming Individual” to be fully inclusive. It requests clarification as to whether the Commission considers LGBTQ to be inclusive of gender non-confirming individuals, and, if so, suggests that the definition be expanded to clarify.
- Veteran- The proposed definition of Veteran requires that the individual be “discharged or released from service under conditions other than dishonorable.” The Company currently allows employees and candidates to self-certify as a “Veteran” but does not ask the form of discharge, nor does it request a DD-214 to verify discharge status. Duquesne Light suggests that this definition be amended to “An individual who served in the United States Armed Forces, including a reserve component or the National Guard, and who self-identifies as having Veteran status. ~~was discharged or released from service under conditions other than dishonorable.~~” The Company further wishes to clarify that an active duty service members or reservists shall be included under this definition.

E. § 69.807. Subcontracting program.

The Policy Statement on Diversity calls on utilities to have a subcontracting program. Duquesne Light is in the process of establishing a more robust subcontractor program. However, it encourages the Commission to consider reducing or removing the dollar amounts currently included in the Statement, which reads “The subcontracting program should apply to purchases/contracts exceeding \$500,000 for products and services, and for construction contracts over \$1 million.” The Company believes relationships can be forged with diverse businesses even through smaller contracts, which can serve as a gateway for a business to expand and provide more services to the utility industry. Because this is a Policy Statement, which provides guidance, but not requirements, each company can determine how to structure its subcontractor program to best fit its needs. Establishing minimum dollar amounts in this guidance document could serve to artificially constrain subcontractor programs and thus opportunities for diverse businesses to get a “foot in the door” and begin learning how to work with utilities.

F. Utilities should report good faith efforts.

In addition to the changes proposed by the Commission, Duquesne recommends that the Policy Statement encourage utilities to also include in annual reports any good faith efforts towards fostering diversity and inclusion in its workforce and procurement practices. Utilities should be recognized for initiating programs, policies, and projects with the intent of fostering diversity and inclusion, even if such efforts are ultimately unsuccessful. Reporting on

those efforts that did not necessarily produce the desired results contributes to the overall body of knowledge the PUC is building towards the transformation of the utility workforce.

G. The Commission should encourage best practice sharing.

While Duquesne Light supports the practice of filing annual diversity reports confidentially, it encourages the Commission to establish a mechanism for information sharing. The Commission could, without individual company attribution, highlight best practices, as well as lessons learned, to help companies learn and evolve together.

IV. CONCLUSION

Fostering diversity and inclusion is a stated goal of Duquesne Light Company. The Commission was a leader 25 years ago in issuing this Policy Statement. The Company commends today's Commission for its leadership to reinvigorate it. The Company is proud of its progress, yet recognizes it, and the utility industry as a whole, can, and must, do more to diversify its workforce and contractors to better reflect the communities it serves. Duquesne Light appreciates the opportunity to participate in this proceeding and looks forward to continued collaboration with the Commission and its fellow utilities on this critical subject.

Respectfully submitted,



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