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PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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 :  
Tiffany Associates v. Duquesne Light Company : Docket No.  
 Complainant would like Duquesne Light to : C-00981142  
 main meter the property to realize volume :  
 discounts for electric use that would benefit :  
 the building and the tenants since it is :  
 apartments for senior citizens. :  
 :

Initial hearing. :  
 :

DOCUMENT

FOLDER

Pages 1 through 70

State Office Building  
 300 Liberty Avenue  
 Pittsburgh, Pennsylvania 15222

Tuesday, May 12, 1998

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

LARRY GESOFF, Administrative Law Judge

APPEARANCES:

PETER R. PATTERSON, Esquire  
 412 First Street  
 Pittsburgh, Pennsylvania 15219  
 (For the Complainant)

RICHARD S. HERSKOVITZ, Esquire  
 411 Seventh Avenue 16-006  
 Pittsburgh, Pennsylvania 15230  
 (For the Respondent)

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 87 South Grant Street  
 Manheim, Pennsylvania 17545

C O N T E N T S

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
Clarence H. Steiner	4	27	33	--
William C. Zollars	36	47	56	--
Clarence H. Steiner (Recalled)	--	--	57	58

E X H I B I T SNUMBERSFOR IDENTIFICATION IN EVIDENCEFor the Complainant:

No. 1 / (Application for Erection of Building)	8	27
No. 2 / (Letter, 11-20-97)	12	27
No. 3 / (Letter, 1-2-97)	13	27
No. 4 / (Rule 41 excerpt)	14	27
No. 5 / (Electric Usage Analysis)	15	27
No. 6 / (16 US Code 2601)	23	27
No. 7 / (16 US Code 2611)	24	27
No. 8 / (16 US Code 2623)	24	27
No. 9 / (16 US Code 2625)	25	27

For the Respondent:

No. 1 /	34	35
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P R O C E E D I N G S1  
2  
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10:00 a.m.

ADMINISTRATIVE LAW JUDGE LARRY GESOFF: This is the time and place set by the Pennsylvania Public Utility Commission for a hearing in the complaint of Tiffany Associates against Duquesne Light Company at Docket Number C-00981142.

I am Larry Gesoff, the Administrative Law Judge assigned to this proceeding. I note the appearance of Peter R. Patterson on behalf of Tiffany Associates, and Richard S. Herskovitz on behalf of Duquesne Light Company.

Before we went on the record, the parties informed me that they discussed the possibility of settlement and were unable to reach a settlement, so we will go ahead with the hearing.

Mr. Patterson.

MR. PATTERSON: Would you care for me to make an opening statement or should I just call my witness?

JUDGE GESOFF: I think you can call your witness.

MR. PATTERSON: I call Clarence Steiner.

JUDGE GESOFF: Mr. Steiner, do you want to come up here, please?

Whereupon,

CLARENCE H. STEINER

having been duly sworn, testified as follows:

1 JUDGE GESOFF: Would you state your name, please?

2 THE WITNESS: Clarence H. Steiner.

3 JUDGE GESOFF: Spell your last name for the court  
4 reporter.

5 THE WITNESS: S-t-e-i-n-e-r.

6 JUDGE GESOFF: Thank you. Go ahead, Mr. Patterson.

7 DIRECT EXAMINATION

8 BY MR. PATTERSON:

9 Q How are you employed, Mr. Steiner?

10 A I'm President of Steiner Realty, Incorporated.

11 Q What does Steiner Realty do?

12 A It's real estate brokerage firm in Edgewood. Our  
13 main business is managing apartment buildings.

14 Q How many units do you have?

15 A We manage a little over 450 units.

16 Q And, how long has Steiner Realty been in  
17 existence in one form or another?

18 A I started with the company in 1985. Prior to  
19 that, my father and uncle had family business that they had  
20 started in the late 1950s with small duplexes and then got  
21 bigger. By the time I got in 1985, it was around 200 units.

22 Q Do you have any experience in real estate,  
23 specifically real estate management of apartments prior to  
24 your entering college?

25 A Just what I would do with my father; I was

1 involved in helping maintain them, paint and basic knowledge  
2 of operations of the buildings prior to that.

3 Q Do you have a college degree?

4 A I do.

5 Q From where?

6 A Haverford College in Philadelphia.

7 Q What was your degree in?

8 A History.

9 Q Did you have any business related courses?

10 A Not particularly.

11 Q Do you have a post-college education?

12 A Yes, I have a law degree from the University of  
13 North Carolina, Chapel Hill.

14 Q Do you have any other licenses?

15 A Real estate broker in the state of Pennsylvania  
16 since 1989, I think.

17 Q You have been managing Steiner Realty since 1985?

18 A That's correct.

19 Q I take it then that you are in charge of the day  
20 to day operations of Steiner Real Estate which includes the  
21 management of the 450 rental units which you own?

22 A That's correct.

23 Q And, I also assume that you are experienced in  
24 tracking cost of utilities, specifically electric, gas,  
25 water, sewer and so on?

1 A Yes, I am.

2 Q Taxes, maintenance and insurance?

3 A That's correct.

4 Q As part of your day to day operations, do you  
5 always search for the best cost alternative for your units  
6 taking into account profitability and marketability?

7 A Certainly. Many of our buildings are organized  
8 under partnerships that we market to a group of investors we  
9 have, and I am directly answerable for performance of the  
10 property, so I do regularly review and keep computer records  
11 of electric usage, gas usage, water consumption. If a water  
12 bill comes in high one month, we send our maintenance staff  
13 to look at the building to find out what toilets are  
14 running, that sort of stuff.

15 MR. PATTERSON: At this time, Your Honor, I would  
16 offer Mr. Steiner as an expert in the field of residential  
17 real estate management.

18 MR. HERSKOVITZ: No objection.

19 JUDGE GESOFF: Okay.

20 BY MR. PATTERSON:

21 Q As a real estate expert in the field, do you  
22 represent an entity known as Tiffany Associates?

23 A I am the President of the corporate general  
24 partner of Tiffany Associates, which is a Pennsylvania  
25 limited partnership.

1 JUDGE GESOFF: Say that again.

2 THE WITNESS: I am the President of the corporate  
3 general partner. Tiffany G.P., Incorporated, is the  
4 corporate general partner for Tiffany Associates, which is  
5 the entity that owns the Tiffany Apartments.

6 BY MR. PATTERSON:

7 Q Was Tiffany Associates formed for the sole  
8 purpose of purchasing the property under discussion here  
9 today?

10 A It was.

11 Q In fact, did Tiffany Associates purchase a  
12 building known as 925 California Avenue?

13 A It purchased the Tiffany Apartments at that  
14 address January 9th of this year.

15 Q How many units are located there?

16 A It's an 84-unit building.

17 Q When you purchased it, how many units were  
18 vacant?

19 A Four were vacant when we purchased it.

20 Q How many are vacant now?

21 A We have ten vacant now.

22 Q What is the normal vacancy rate in the Pittsburgh  
23 region?

24 A Well, in the buildings that we operate, our  
25 typical vacancy rate is around two percent.

1 Q Do the vacancies in this particular building  
2 exceed the normal vacancy rate?

3 A Surprising so for us, yes.

4 Q I will show you what we have marked as  
5 Plaintiff's Exhibit 1 and ask if you recognize that  
6 document?

7 A I do.

8 JUDGE GESOFF: We need two copies for the court  
9 reporter.

10 MR. PATTERSON: I'm sorry, Your Honor, I...

11 JUDGE GESOFF: If you don't have them, we will get  
12 them here, but we need two for the court reporter for future  
13 reference.

14 (Whereupon, the document was marked as  
15 Complainant's Exhibit No. 1 for  
16 identification.)

17 BY MR. PATTERSON:

18 Q Do you recognize this document?

19 A I do.

20 Q What is it?

21 A It's a letter that was faxed to me, a building  
22 erection application that was faxed to me by the Inspector  
23 from Avalon Borough, Tony Manasci (ph) yesterday at my  
24 request about any sort of proof they had about the  
25 construction date of the Tiffany Apartments.

1 Q What does this document indicate the construction  
2 date was?

3 A Well, it indicates the application was July of  
4 1963. It doesn't state for a fact when the building was  
5 completed, but I know that...

6 Q Prior to your purchase of the building, did you  
7 review certain documents including deeds, appraisals and  
8 title reports that would give you an indication of  
9 approximately when the building was constructed?

10 A The appraisal estimated a construction date of  
11 1965, and I...

12 Q In fact, you have leases that date from the  
13 1960s?

14 A In reviewing the leases, there were applications  
15 and leases that started when the building was built, and my  
16 recollect is it was 1964.

17 MR. PATTERSON: Your Honor, I think you can take  
18 judicial notice of the fact that for purposes of this  
19 hearing, this building was connected prior to 1981 as it  
20 relates to Act 41.

21 MR. HERSKOVITZ: Excuse me. Connected; and I don't  
22 understand what Act 41 is?

23 MR. PATTERSON: I'm sorry. That's what we are here  
24 for.

25 JUDGE GESOFF: Rule 41?

1 MR. HERSKOVITZ: Rule 41, okay.

2 MR. PATTERSON: Yes.

3 JUDGE GESOFF: Do you have a copy of it for me?

4 MR. PATTERSON: Yes, Your Honor.

5 (Counsel handing document to Judge.)

6 JUDGE GESOFF: Is the word, connected, in here?

7 MR. PATTERSON: Yes, the first full paragraph, "Each  
8 residential dwelling unit in a building must be individually  
9 metered by the company for buildings connected after January  
10 1st, 1981."

11 JUDGE GESOFF: Okay. Any objection to judicial  
12 notice?

13 MR. HERSKOVITZ: I'm still not sure what he means by  
14 connected, if he means individual meters were connected or  
15 electricity was connected or...

16 JUDGE GESOFF: He's saying, as I recall, within the  
17 scope of Rule 41, it's connected within the scope of Rule  
18 41. That raises the question of what connected means with  
19 respect to Rule 41.

20 MR. HERSKOVITZ: Right.

21 MR. PATTERSON: If they have something that indicates  
22 something different than what my argument is, they can  
23 certainly present it.

24 MR. HERSKOVITZ: We won't argue the point. They were  
25 individually metered before January 1st, 1981, if you want

1 to say that. I would admit that.

2 MR. PATTERSON: For purposes of the rule, I think  
3 it's important to determine when the building was connected,  
4 and I think -- my interpretation of it is that when the  
5 electric service was connected to the building.

6 JUDGE GESOFF: That's how it looks to me. Without  
7 knowing anything other than that, it makes sense. This is  
8 an electric utility. This is their tariff. This is the  
9 rule. They are talking about individual metering and they  
10 are talking about buildings connected.

11 If they weren't connected to electricity, then  
12 individually metered would have no meaning, so it's kind  
13 of -- lending statutory construction to it, the words have  
14 to be given their logical meanings. I am going to draw that  
15 conclusion unless I am persuaded otherwise.

16 MR. PATTERSON: Thank you, Your Honor.

17 BY MR. PATTERSON:

18 Q In this building, Mr. Steiner, is the electric  
19 separately metered currently?

20 A Eighty-three of the 84 apartments are separately  
21 metered. Then there is the house meter that controls all  
22 the house lights, the central air conditioning unit and a  
23 basement apartment, the 84th unit.

24 Q Is the gas service separately metered?

25 A No, it's not.

1 Q Is the water and sewer separately metered?

2 A No, they are all central.

3 Q At some point before you purchased this building,  
4 did you contact Duquesne Light and inquire regarding having  
5 this building master metered; in other words, removing the  
6 individual meters and having one meter installed?

7 A I did.

8 Q Do you recall specifically what your request to  
9 them was?

10 A I know I had sent a letter. I called Duquesne  
11 Light and was referred to Mr. Zollars.

12 Q Let me direct your attention to what we have  
13 marked as Complainant's Exhibit 2, and I will ask if you can  
14 identify that document?

15 (Whereupon, the document was marked as  
16 Complainant's Exhibit No. 2 for  
17 identification.)

18 A Yes, this is a copy of a letter dated November  
19 20th that I sent to Mr. Zollars, and it mentions a phone  
20 conversation we had had prior to this letter. It's my  
21 formal request to have the building main metered.

22 Q What is the date of that letter?

23 A November 20th.

24 Q When did you close on this property?

25 A January 9th -- November 20th, 1997 is the date of

1 the letter and we closed January 9th, 1998.

2 Q Did you receive a response from Duquesne Light?

3 A I did.

4 Q I will show you what we have marked as  
5 Plaintiff's Exhibit 3 and ask if you recognize this  
6 document?

7 (Whereupon, the document was marked as  
8 Complainant's Exhibit No. 3 for  
9 identification.)

10 A I do recognize it. It's Mr. Zollars' response  
11 dated January 2nd. It's again his formal rejection of my  
12 request.

13 Q On what rule does Mr. Zollars deny your request  
14 for main metering?

15 A Rule 41 of the Duquesne Light tariff.

16 Q We will get into it in a little bit, but based  
17 upon your analysis of Rule 41 and other legal documents, is  
18 there a flat prohibition against master metering?

19 A No. Based upon my review of PURPA, the Public  
20 Utility Commission's, what is it Regulation...

21 Q We will get to that.

22 MR. HERSKOVITZ: Regulatory.

23 THE WITNESS: Regulatory Provisions Act, or something  
24 like that, there are exceptions that do allow master  
25 metering.

1 BY MR. PATTERSON:

2 Q We will get to that. The master metering request  
3 was, I take it, and integral part of your decision to  
4 purchase this building and it also played a part in your  
5 analysis of the income stream from the building?

6 A Correct, it did.

7 Q I will show you what we previously provided to  
8 the Judge and marked as Complainant's Exhibit 4, which is  
9 Rule 41 of the Duquesne Light tariff regarding prohibition  
10 of residential master metering. For purposes of the record,  
11 I would like you to read the first full paragraph.

12 (Whereupon, the document was marked as  
13 Complainant's Exhibit No. 4 for  
14 identification.)

15 A "Prohibition of Residential Master Metering:  
16 Each residential dwelling in a building must be individually  
17 metered by the company for buildings connected after January  
18 1, 1981. For the purposes of the Rule, a dwelling unit is  
19 defined as:..."

20 Q And, it goes on to define it?

21 A Yes.

22 Q Would you read the last sentence, please?

23 A "This rule shall not effect any practice  
24 undertaken prior to January 1, 1981."

25 Q As a result of Duquesne Light's informal

1 decision, did you file a formal complaint?

2 A I did.

3 MR. PATTERSON: I assume that's part of the record,  
4 Your Honor.

5 BY MR. PATTERSON

6 Q What essentially did you request in your  
7 complaint?

8 A I requested that we be allowed to master meter  
9 the building. One aspect of my complaint was that the  
10 language of Rule 41, I read it differently than Duquesne  
11 Light read it, that if the building was built and connected  
12 prior to 1981, that this shouldn't be a prohibition for our  
13 building to master meter it.

14 Q Did you base part of your request on your  
15 analysis of Rule 41?

16 A Certainly.

17 Q You have other buildings, correct, that are both  
18 master metered and individually metered?

19 A That's correct. We have a mix.

20 Q For purposes of this hearing, did you prepare  
21 what we have marked as Plaintiff's Exhibit 5?

22 (Whereupon, the document was marked as  
23 Complainant's Exhibit No. 5 for  
24 identification.)

25 A I shouldn't say for purposes of this hearing, but

1 for your and my information -- we can use it for this  
2 hearing.

3 Q Did you prepare what you have titled Electric  
4 Usage Analysis?

5 A Yes.

6 Q For how many buildings did you prepare this  
7 analysis?

8 A This is for two buildings that are virtually  
9 identical in location, size, composition as far as the mix  
10 and makeup of the units, the only difference being one is --  
11 all utilities are paid by us, the Normandy Apartments in  
12 Shady Side, and the one next door, the Tree Haven Apartments  
13 which we also own and manage, the tenants pay their own  
14 electric.

15 Q So, the Normandy, in other words has a master  
16 meter, correct?

17 A That's correct.

18 Q Pursuant to your analysis of the electric for the  
19 Tree Haven and the Normandy Apartments, did you arrive at a  
20 conclusion?

21 MR. HERSKOVITZ: Your Honor, I am going to object to  
22 this line of questioning. You cannot compare usage from  
23 other customers, other buildings to this particular customer  
24 at issue. Everybody has different usage patterns.  
25 Buildings are different, built differently, different times.

1 It doesn't say when these buildings were built. It's  
2 irrelevant to this case.

3 MR. PATTERSON: I think it is relevant, Your Honor.  
4 It goes to the heart of the matter here, and we will show  
5 later, pursuant to PURPA -- his analysis actually shows that  
6 a benefit to electric consumers as well as a cost saving to  
7 his company as a result of his deciding to master meter this  
8 building under discussion.

9 This is really just for a comparative analysis to  
10 show the difference between a master metered building.

11 JUDGE GESOFF: I will allow the question to go ahead  
12 and I will give this document and the testimony the weight  
13 which it should have, keeping in mind the points that  
14 Mr. Herskovitz has raised.

15 BY MR. PATTERSON:

16 Q Getting to the heart of the matter, Mr. Steiner,  
17 did you arrive at a conclusion based upon your analysis?

18 A I did arrive at a conclusion. The conclusion is  
19 two-fold. One, is that the main metered building, the  
20 Normandy, because it benefitted from volume electric  
21 purchase, as you can see its kilowatt hour usage in that  
22 first statistical chart is roughly three times as much as  
23 the house lights for the Tree Haven.

24 Because of that increase in volume, you can see the  
25 cost per kilowatt hour is a little bit over ten percent less

1 for the Tree Haven.

2           The second aspect is because the Duquesne Light  
3 residential tariff for the separately metered building  
4 includes a service fee for each unit of \$6.38. That  
5 increases the cost to the tenant in the separately metered  
6 building.

7           What I have done is I have taken the residential  
8 portion for the apartment of the Normandy and divided it by  
9 the number of units in the Normandy, 22 units, and applied  
10 the Duquesne Light tariff, which is the \$6.38 service fee  
11 and the usage charge of 11.66 cents per kilowatt hour and  
12 applied the credit which they currently have their bills to  
13 come up with a monthly cost to our tenants, if the building  
14 was separately metered, of \$29.16 per unit on average.

15           The per kilowatt cost, as you can see, is almost 15,  
16 14 and half cents. It would be if the Duquesne Light tariff  
17 were applied to these apartments, if the building was  
18 separately metered as opposed to what we are paying of 9.1  
19 cents per kilowatt hour at the Normandy.

20           I go on to apply it the Tiffany Apartments because  
21 the Tiffany house meter has much higher volume than the  
22 Normandy because it's a bigger building, and during the  
23 summer, it has much, much higher kilowatt draw because of  
24 the air conditioning facilities.

25           I have bills here with me, but the average wintertime

1 kilowatt hour usage at the Tiffany Apartments, just as it is  
2 now, is around 10,000 kilowatt hours per month. In the  
3 summer, that increases three-fold to 30,000 per month.

4 Because of that, the Tiffany Apartments buys even a  
5 greater volume of electric, and the electric rate is even  
6 less than it is at the Normandy Apartments. For example,  
7 last summer from June to July, it was 8.39 cents per  
8 kilowatt hour.

9 I finally go on to show that at the Tiffany  
10 Apartments, because there are 83 separately metered units,  
11 the cost for that building, just for having the separately  
12 metered units, is 83 units times the service fee, \$6.38, per  
13 unit per month, which comes to over \$6,000 just for Duquesne  
14 Light's privilege of coming in to read the meters, is my --  
15 that's one aspect of the service.

16 If we can main meter it, we will then just have a  
17 service fee for the main meter which will be a substantial  
18 savings to the building, which can then be passed on to the  
19 tenants to make the building more attractive.

20 Q So, in your estimation, what would be the loss in  
21 revenue to Duquesne Light as a result of your request to  
22 master meter this building?

23 A Based upon the dropping of the service fees I  
24 just mentioned, that would be roughly \$500 a month time 12,  
25 \$6,000, and because right now they are getting 11.66 cents

1 per kilowatt hour from the residential tenants, if we can  
2 buy ours for nine cents, less say, or less, we will be  
3 realizing that savings for the tenants of two or three cents  
4 per kilowatt hour for all those residential units, which  
5 again an estimate would be, say, another \$5,000.

6 Q So roughly \$10,000 a year?

7 A I would say \$10,000 to \$15,000 a year would be  
8 the savings we could realize.

9 Q And, some of those savings would, of course, be  
10 passed on to the tenants?

11 A Certainly.

12 Q In fact, is one of the reasons for your request  
13 to master meter the building have to do with marketing the  
14 building?

15 A Well, the building is current a seniors building.  
16 Eighty percent or more, it's actually around 92 percent, of  
17 the occupants of the building are senior citizens, and in my  
18 experience, we have a building right around the corner from  
19 it in Bellevue that has all utilities included, my  
20 experience is that seniors typically on a fixed income,  
21 either Social Security, budget or a pension, really do like  
22 to have all utilities included. There's no electric expense  
23 surprise.

24 In marketing it, we find that's a big advantage, and  
25 to the current tenants, we can offer them a -- we will

1 increase their rent, but we will increase it less than what  
2 their budget payment currently is.

3 We will ask them to bring their budget electric  
4 bills, and if it's \$23 a month, we will raise the rent \$20  
5 or something like that. That's our intention. It will  
6 benefit the current tenants and make the building more  
7 attractive to prospective tenants.

8 Q I would like to direct your attention to the  
9 first full paragraph on page 4 of Duquesne Light's answer to  
10 your complaint and I would ask you, please, to read into the  
11 record the portion that I have underlined.

12 A "The Rule promotes energy conservation and  
13 eliminates subsidization of high electric consumption  
14 customers by low consumption customers."

15 Q The reference there to Rule is Rule 41, correct?

16 A Yes.

17 Q Do you agree with that statement made by Duquesne  
18 Light?

19 A No, I think it's -- it stood the argument on its  
20 head. It's the reverse. I would argue that having it  
21 separately metered, in our case, the senior citizens in the  
22 building are paying rates of 15, 16 cents per kilowatt hour  
23 and they are subsidizing the higher volume users that  
24 Duquesne Light can offer a discount to, and I think that's  
25 unfair.

1 Q Now I will direct your attention also to page 5  
2 of Duquesne Light's answer to your complaint. The last  
3 paragraph going over to the next page, I would ask you to  
4 read the underlying portions, please.

5 A "Complainant's averment that he is grandfathered  
6 and exempt from Rule 41 is denied. On the contrary, only  
7 buildings that were master metered prior to 1981 are  
8 grandfathered and therefore, exempt from Rule 41."

9 Q According to your reading of Rule 41, is that  
10 statement correct; first, is it correct in that buildings  
11 master metered fall under Rule 41?

12 A Rule 41 doesn't mention -- if I could see a copy  
13 of Rule 41?

14 Q Does Rule 41 mention anything about master  
15 metering or a prohibition against master metering for  
16 buildings that were master metered prior to January 1st,  
17 1981?

18 A No, it doesn't.

19 Q In fact, Rule 41 only talks about buildings  
20 connected after January 1st, 1981, correct?

21 A That's correct.

22 Q They also say in their answer there that they  
23 admit that there is a grandfathering provision under Rule  
24 41, correct?

25 A I would agree with that, yes.

1 Q In other words, buildings connected prior to 1981  
2 could presumably be master metered, correct?

3 A That's correct.

4 Q As a lawyer, you reviewed the Act known as the  
5 Public Utility Regulatory Policies Act, correct?

6 A That's correct.

7 Q Otherwise known as PURPA, correct?

8 A That's correct.

9 Q I would like to direct your attention to what I  
10 have marked as Plaintiff's Exhibit 6, 16 US Code 2601. We  
11 have highlighted in yellow certain portions of that,  
12 correct?

13 (Whereupon, the document was marked as  
14 Complainant's Exhibit No. 6 for  
15 identification.)

16 A Yes.

17 Q Would you read the portions we have highlighted  
18 in yellow?

19 A "Congress finds that the protection of the public  
20 health requires equitable retail rates for electric  
21 consumers."

22 Q I will direct your attention to what we have  
23 marked as Plaintiff's Exhibit 7, which is 16 US Code Section  
24 2611 entitled Purposes. What is the purpose as outlined in  
25 yellow there?

1 (Whereupon, the document was marked as  
2 Complainant Exhibit No. 7 for  
3 identification.)

4 A "Purpose Number 3; equitable rates to electric  
5 consumers."

6 Q Does your analysis indicate that you would be  
7 providing equitable rates to the consumers in the building  
8 which you purchased.

9 Q I will direct your attention to what we have  
10 marked as Plaintiff's Exhibit 8, 16 US Code 2623,  
11 Subparagraph (b)(1) Mastering Metering. Would you read  
12 that, please?

13 (Whereupon, the document was marked as  
14 Complainant's Exhibit No. 8 for  
15 identification.)

16 A "To the extent determine appropriate under  
17 Section 2625(d) of the title, mastering metering electric  
18 service in the case of new buildings shall be prohibited or  
19 restricted to the extent necessary to carry out the purposes  
20 of this chapter."

21 Q Does this particular statute mention anything  
22 about buildings constructed or connected prior to 1981?

23 A No, it just says "new buildings."

24 Q And, I will direct your attention to what we have  
25 marked as Plaintiff's Exhibit 9, 16 US Code 2625, which is

1 referenced in the previous document you just read from under  
2 Master Metering. Does that reference new buildings only?

3 (Whereupon, the document was marked as  
4 Complainant Exhibit No. 9 for  
5 identification.)

6 A The first sentence, "Separate metering shall be  
7 determined appropriate for any new buildings for purposes of  
8 Section 2623 of this title."

9 Q In other words, under this section, a new  
10 building could have a master meter if it had the three  
11 requirements set forth under this section, correct?

12 A The new building could be master metered if it  
13 complied with the three requirements, that's correct.

14 Q What is the first one?

15 A That there be more than one unit in the building.

16 Q Do you have more than one unit in your building?

17 A We do.

18 Q And, the second requirement?

19 A "The occupant of each such unit has control over  
20 a portion of the electric energy used in such unit."

21 Q And, do you have that in your building?

22 A Certainly; they can turn lights on and off and  
23 they can control it in that sense.

24 Q And, the third requirement?

25 A "With respect to such portion of electric energy

1 use in such unit, the long-run benefit to the electric  
2 consumers in such buildings exceed the cost of purchasing  
3 and installing separate meters in such building."

4 Q Granted, this statute refers to new buildings, it  
5 doesn't refer to old buildings, but according to your  
6 analysis, if this were a new building we were talking about,  
7 would you be permitted to install a master meter?

8 A I would think so because we meet all -- the  
9 benefits to the electric consumers would be a lower charge  
10 for electricity under that third prong, and we have met the  
11 other two aspects.

12 MR. PATTERSON: Your witness.

13 MR. HERSKOVITZ: Could I have five minutes, Your  
14 Honor?

15 JUDGE GESOFF: Yes.

16 (Whereupon, a recess was taken.)

17 JUDGE GESOFF: Back on the record.

18 MR. PATTERSON: Your Honor, a procedural note, I  
19 would just ask for the admission of the documents I have  
20 presented, Exhibits 1 through 9.

21 JUDGE GESOFF: Any objection?

22 MR. HERSKOVITZ: My objection is to Number 5, Your  
23 Honor, which I think is irrelevant and misleading.

24 JUDGE GESOFF: I'm going to allow it in and I will  
25 make note of your argument that buildings are different, we

1 have no way of knowing if individuals in the buildings have  
2 the same consumption habits. You don't know what specific  
3 electric using utilities are in each unit of each building.  
4 You don't know what the construction of the buildings are,  
5 the insulation, etcetera. Exhibits 1 through 9 are admitted.

6 (Whereupon, the documents marked as  
7 Complainant Exhibit Nos. 1 through 9  
8 were received in evidence.)

9 MR. HERSKOVITZ: Thank you.

10 CROSS EXAMINATION

11 BY MR. HERSKOVITZ:

12 Q Mr. Steiner, did you say you checked with  
13 Duquesne Light before you purchased the building about  
14 mastering metering?

15 A Yes.

16 Q And, that was with Mr. Zollars; is that who you  
17 spoke to?

18 A Yes.

19 Q And, one of your reasons for purchasing it was  
20 because it would be master metered?

21 A No. In the analysis of the purchasing, you try  
22 to figure out ways to make the building -- buildings cost a  
23 lot these days. Everyone is bidding on it, so you try to  
24 find a way to make a deal more attractive and make it work,  
25 and one of the ways, a savings, is by the master metering.

1 It can make the building more attractive to tenants and it  
2 can make it less expensive to operate.

3 In some of our buildings we switched gas companies  
4 because we know one gas company has a cheaper rate and that  
5 goes into our planning and our purchase plan and makes us  
6 able to buy buildings where others might not be able to.

7 Q I'm still a little confused, though. You wanted  
8 to purchase it because master metering would be less  
9 expensive for you?

10 A No, it's for the whole building. Any savings we  
11 can get for a building, any savings we can get means that we  
12 can have our rental rates lower than the competition and we  
13 can have higher occupancy.

14 We have 98 percent occupancy in all of our units, a  
15 lot of units give or take a year or two there where it might  
16 go up a little bit. We run a very high occupancy rate, and  
17 part of the reason is that our rental rates are reasonable,  
18 and that's one way we do it.

19 Q But, what I am getting at is you were told before  
20 you purchased it that it couldn't be master metered; is that  
21 correct?

22 A Certainly, but that was a surprise to me and  
23 that's why we are here today.

24 Q But, it was told to you. You knew that before  
25 you purchased the building. Is that correct?

1           A    I knew it before we closed on the building.  I  
2    didn't know it before we signed the agreement and were full  
3    steam ahead.

4           Q    Well, is your building marketed as for senior  
5    citizens only?

6           A    Yes.

7           Q    And, do...

8           A    No, no, it's not for seniors only.  It is an  
9    over-55 building, which means 80 percent -- we advertise it  
10   as seniors and we advertise in the Seniors paper, and our  
11   requirement to be able to do that is 80 percent of the  
12   tenants have to be over 55 and there has to be a social  
13   room.  There doesn't have to be, but those sort of  
14   amenities...

15          Q    When you say requirements, are you...

16          A    That's the requirement...

17          Q    Are these requirements --

18          A    The federal...

19          Q    -- of some sort of regulations?

20          A    Federal -- HUD, I think.

21          JUDGE GESOFF:  It would be better not to talk at the  
22   same time.  Wait until he asks the question.  Even though  
23   you know the answer before he finishes the question, wait  
24   until he finishes the question.

25          THE WITNESS:  Yes, sir.

1 BY MR. HERSKOVITZ:

2 Q Do you have to be licensed in some manner to --

3 A No.

4 Q -- rent it out in this way?

5 A No.

6 Q Did you have the electric bills for all 83 of 84  
7 units when you computed your Exhibit 5?

8 A No. I called Duquesne Light and spoke to one of  
9 the representatives and got around ten samples. I  
10 sampled...

11 Q Estimates, correct?

12 A Well, I...

13 Q Averages?

14 A Budgets, exactly, and I sampled efficiencies, two  
15 or three efficiency units, three or four one-bedrooms and  
16 two or three two-bedrooms to come up with a estimate of what  
17 their current electric consumption is.

18 Q And, this was just for one month; is that  
19 correct; the budget bill, these are the budget bills --

20 A The budget bills, --

21 Q -- for that particular month?

22 A -- my understanding, and Mr. Zollars should know  
23 more than I, is the budget bill is based on the prior period  
24 of usage, and my impression was that it was the prior year's  
25 usage of the apartment and it's averaged out to a budget.

1 Q Do you know what the electric usage is in all 83  
2 apartments?

3 A No. If Duquesne Light would have -- I asked that  
4 and they said "We can't give you all that," and so I got ten  
5 selected samples. That's all I needed.

6 Q Do you know what appliances, electric appliances,  
7 are in any of these?

8 A Yes. I know they are all refrigerators, electric  
9 range and lights.

10 Q Do you know whether they have stereo equipment?

11 A Oh, no, I don't know any additional appliances  
12 they might have.

13 Q Do you know whether these tenants -- is there air  
14 conditioning in these units?

15 A There is central air that the building provides.

16 Q Are there microwaves in these units; is that  
17 provided?

18 A Not provided by the building.

19 Q But, there are electric ranges?

20 A There are electric ranges.

21 Q Do you know whether or not there is a cost to  
22 rewire your apartment complex to go from individual metering  
23 to master metering?

24 MR. PATTERSON: I would object to that and ask that  
25 you be more specific with regard to wiring.

1 BY MR. HERSKOVITZ:

2 Q Do you know whether there would be a cost to you  
3 to transfer you to master metering individual metering?

4 A I'm sure there would be a cost, yes.

5 Q Do you know what that cost would be?

6 A I don't know for a fact, but I have an estimate.

7 Q Was it an estimate you made or that you got from  
8 Duquesne Light?

9 A Well, that's what started the process. I called  
10 Duquesne Light to find out what their requirements were, and  
11 I never got a -- the letters you see in front of you are the  
12 responses I received, so I didn't get anything from Duquesne  
13 Light.

14 I did talk to an electrician that we use and had a  
15 ball park estimate in my mind of \$5,000 to \$10,000 that  
16 would be our cost to do that.

17 Q Was that factored into your savings on Exhibit  
18 Number 5?

19 A No, it's not mentioned in Exhibit 5, but as we  
20 discussed, the savings of \$10,000 to \$15,000 a year would  
21 pay for that in a year or less. When we purchased the  
22 building, we did have a capital reserve with funding for  
23 that purpose.

24 MR. HERSKOVITZ: Could I have a moment, Your Honor?

25 JUDGE GESOFF: Yes.

1 (Mr. Herskovitz reviewing notes.)

2 MR. HERSKOVITZ: That's all I have. Thank you.

3 JUDGE GESOFF: Any redirect?

4 MR. PATTERSON: Just one question, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. PATTERSON:

7 Q In line with the last question, are there long-  
8 term benefits to the consumers, the tenants, from master  
9 metering in excess of the cost to install it?

10 A Oh, certainly, certainly.

11 Q And, you would recover the cost of installing a  
12 master meter in one year, correct?

13 A According to my estimates, yes.

14 Q And, presumably the tenants would then reap the  
15 benefits over the next however many years they were there of  
16 the reduced cost to purchase electricity --

17 A Certainly.

18 Q -- as a result of your volume discount and your  
19 discount to the tenants to include all utilities, correct?

20 A Certainly.

21 Q Do you have tenants who have been there for a  
22 extended period of time?

23 A We've had -- there are three or four who have  
24 been there since the building was built.

25 Q In excess of 30 years?

1 A Yes.

2 MR. PATTERSON: That's all I have.

3 MR. HERSKOVITZ: Your Honor, I should have asked him  
4 this before. I apologize, but I do have a question  
5 concerning his Exhibit Number -- that's okay. I have no  
6 further questions.

7 JUDGE GESOFF: You are excused, sir.

8 (Witness excused.)

9 MR. HERSKOVITZ: Before I begin, I would like to have  
10 an exhibit marked as Respondent's Exhibit 1.

11 JUDGE GESOFF: That will be so marked.

12 (Whereupon, the document was marked as  
13 Respondent's Exhibit No. 1 for  
14 identification.)

15 MR. HERSKOVITZ: Just for explanation, these are  
16 Public Utility Commission Orders. I guess they could be  
17 taken judicial notice of and submitted into evidence through  
18 the Public Document Regulation.

19 Basically what they do is -- it is the approval of  
20 Tariff Rule 41, which at that time was Tariff Rule 42. It's  
21 the Commission's approval, and these are excerpts from the  
22 Commission's decision.

23 The Commission, on page 150, which is the third page  
24 in, approved the ALJ's recommendation that Duquesne be found  
25 in compliance with the master metering standards of PURPA.

1 Then the Judge's Recommended Decision is attached for  
2 reference. It's on page 113 and 119, the discussion, which  
3 is limited, on master metering, but it does approve the  
4 tariff rule which, like I said, is referred to as Tariff  
5 Rule 42. I submit it is Tariff Rule 41 now.

6 Of course, going back to the Commission's Order, on  
7 page 139, which is the second page in, it does refer to the  
8 PURPA Act, which is put into evidence, and the standards and  
9 purposes of the PURPA Act.

10 At this time, I would like to call Bill Zollars as my  
11 witness.

12 MR. PATTERSON: Your Honor, I have no objection to  
13 this document. I would just like to note that nowhere does  
14 it define -- let me begin again. It, in fact, says that  
15 "master metering may be prohibited except where it has been  
16 shown that special circumstances exist."

17 It makes reference on page 119 to prohibiting master  
18 metering for residential structures connected after January  
19 1, 1981. It does not, according to my reading it, exclude  
20 master metering for buildings connected prior to 1981.

21 JUDGE GESOFF: Respondent's Exhibit 1 will be  
22 admitted into the record.

23 (Whereupon, the document marked as  
24 Respondent's Exhibit No. 1 was  
25 received in evidence.)

1 MR. HERSKOVITZ: Thank you, Your Honor.

2 JUDGE GESOFF: Mr. Zollars, would you raise your  
3 right hand?

4 Whereupon,

5 WILLIAM C. ZOLLARS

6 having been duly sworn, testified as follows:

7 JUDGE GESOFF: Have a seat and please state your name  
8 and spell your last name for the court reporter.

9 THE WITNESS: My name is William C. Zollars. That's  
10 Z-o-l-l-a-r-s.

11 JUDGE GESOFF: Thank you. Go ahead, Mr. Herskovitz.

12 MR. HERSKOVITZ: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. HERSKOVITZ:

15 Q What is your business address?

16 A My business address is 411 Seventh Avenue,  
17 Pittsburgh, PA 15219.

18 Q By whom are you employed?

19 A The Duquesne Light Company.

20 Q And, what is your position?

21 A I'm an Account Representative in the Marketing  
22 and Sales Group.

23 Q Can you describe your duties in that position?

24 A My duties are to handle accounts such as  
25 apartment buildings, residential care homes and office

1 buildings with less than a one megawatt load.

2 My duties would include account maintenance,  
3 providing engineering solutions, energy savings measures and  
4 as an engineer, I'm actively involved in the engineering of  
5 all different types of projects that go on in the latest and  
6 greatest technologies and how they apply to my segment.

7 Q Would you briefly describe your education and  
8 your prior work experience?

9 A I have a Bachelor of Science in electrical  
10 engineering from the University of Vermont. Prior to being  
11 employed by Duquesne Light Company, I was the electrical  
12 testing department manager at Professional Service  
13 Industries, Pittsburgh Testing Laboratory Division in Green  
14 Tree.

15 Q Have you dealt with conservation issues in your  
16 experience with either Duquesne Light or prior to Duquesne  
17 Light?

18 A Yes. At both locations or at both jobs, that's  
19 been a main focus of my job.

20 Q Are you familiar with the subject matter of this  
21 complaint?

22 A Yes.

23 Q And, you have spoken to Mr. Steiner previously?

24 A Yes, I have.

25 Q Can you just briefly explain what the nature of

1 your conversation was with him?

2 A I received a message from a coworker that a  
3 friend of his was interested in master metering an apartment  
4 building. This is referring to Casey Steiner. I gave Casey  
5 a call to take his inquiry regarding this master metering  
6 request and informed him of Duquesne Light's tariff.

7 JUDGE GESOFF: When was this?

8 THE WITNESS: The original conversation was November  
9 18th, 1997.

10 JUDGE GESOFF: Thank you.

11 BY MR. HERSKOVITZ:

12 Q What did you explain to him with regard to  
13 whether or not Duquesne Light could master meter the  
14 apartment?

15 A I specifically cited Rule 41 of our tariff which  
16 prohibits the master metering of apartments buildings.

17 Q Do you know the reason for Rule 41?

18 A Yes. Rule 41 was a direct result of a PURPA Act  
19 of 1978 in order to conserve energy. That's its main focus,  
20 that in a separately metered condition for apartment  
21 buildings, there was more of an emphasis for the individual  
22 apartment tenant to conserve electricity by having more  
23 control over the bill.

24 Q You referenced, in what has been admitted as  
25 Plaintiff's Exhibit 3, which is a letter you had sent to

1 Mr. Steiner, a conservation act there. You are saying now  
2 that it is based on the PURPA statute. Can you explain why  
3 there is a seemingly contradiction between the two?

4 A I originally wrote that this was a direct result  
5 of the Building Conservation Act 222. This was in formation  
6 that I received from another department within Dugesne  
7 Light. I was later informed that this was wrong, but the  
8 same underlying reason does apply, the interest of energy  
9 conservation. Again, it was due to the PURPA Act of 1978.

10 Q I would like to also had you Plaintiff's Exhibit  
11 Number 6. In that exhibit, what was highlighted by the  
12 Complainant was the last phrase under Section 2601,  
13 Subsection 1. Can you read the entire subsection?

14 A "One, a program providing for increased  
15 conservation of electric energy, increased efficiency in the  
16 use of facilities and resources and equitable retail rates  
17 for electric customers."

18 Q So, there's more than one reason in there; is  
19 that correct?

20 A That's correct.

21 Q I will hand you Complainant's Exhibit 7 where  
22 they have outlined the purpose of the PURPA Chapter. They  
23 highlighted parenthetical three. Can you read the entire  
24 section?

25 A "The purposes of this chapter are to encourage,

1 one, conservation of energy supplied by electric utilities;  
2 two, the optimization of efficiency of use of facilities and  
3 resources by electric utilities; and three, equitable rates  
4 to electric customers."

5 Q So, there's more than just equitable rates to  
6 electric customers as a purpose, correct?

7 A That is correct.

8 Q You may have mentioned this, but does individual  
9 metering promote electric conservation, energy conservation?

10 MR. PATTERSON: I object. He hasn't been qualified  
11 to answer that question.

12 MR. HERSKOVITZ: Well, Your Honor...

13 MR. PATTERSON: There's no basis for him to answer  
14 that question.

15 JUDGE GESOFF: He's already answered it. The tenant  
16 can conserve more by having control of the bill.

17 MR. PATTERSON: I think that's a conclusion. I don't  
18 think there's any foundation laid.

19 JUDGE GESOFF: He already gave that opinion before.  
20 It was un-objected to. It's in the record.

21 I think that's the question you were asking. Is that  
22 what you are asking?

23 MR. HERSKOVITZ: Yes.

24 JUDGE GESOFF: The question was in response to single  
25 metered units, and that was his statement.

1 BY MR. HERSKOVITZ:

2 Q Mr. Zollars, in your opinion, having worked with  
3 energy conservation issues which you do at Duquesne Light,  
4 does master metering promote energy conservation?

5 MR. PATTERSON: Same objection, Your Honor, I don't  
6 think he's qualified to answer. There's been no foundation  
7 laid for him to provide that answer.

8 MR. HERSKOVITZ: Your Honor, he is an electrical  
9 engineer, he has been working at Duquesne Light for several  
10 years and his duty are to deal, as he specifically stated,  
11 with conservation issues and energy savings and so forth in  
12 dealing with his accounts. He should have the experience to  
13 state what he does for Duquesne Light, which is determine  
14 what type of facilities, how they should be metered and why.

15 JUDGE GESOFF: Overruled. Do you need the question  
16 repeated?

17 THE WITNESS: Yes. Would you repeat the question,  
18 please?

19 BY MR. HERSKOVITZ

20 Q Does master metering promote conservation, in  
21 your opinion?

22 A No, it does not.

23 Q Can you explain why not?

24 A If an individual has control over his or her own  
25 electric bill, there is more emphasis on taking the prudent

1 measures in order to conserve electric energy.

2 For instance, I can tell you personally from my own  
3 experience that when I went to college...

4 MR. PATTERSON: I would object, Your Honor. We are  
5 talking about one building. If he has specific facts that  
6 to relate regarding this building, I would have no  
7 objection, but if he is going to talk about what he did in  
8 college, I don't think it's relevant.

9 MR. HERSKOVITZ: I think he is explaining why it  
10 doesn't promote conservation.

11 JUDGE GESOFF: Overruled.

12 MR. PATTERSON: He has offered no facts at all, Your  
13 Honor. There's nothing to substantiate -- he's merely  
14 stating conclusions based on hypotheticals of his own  
15 experience. I don't believe that's...

16 MR. HERSKOVITZ: Wait a minute.

17 JUDGE GESOFF: Own experience is not a hypothetical.  
18 I am overruling the objection.

19 THE WITNESS: I don't specifically, as a college  
20 student where money was important to me, during my freshman  
21 year, I lived in a dorm and there wasn't any fiscal  
22 responsibility for me to control my electric bill or heating  
23 bills. As a result, I had no emphasis at all on  
24 conservation of energy.

25 Later in my college years when I moved out into an

1 apartment when I was responsible for every single budgetary  
2 constrain such as your gas and electric bill, this did  
3 become more of an emphasis and I really did try to conserve  
4 energy. That's my personal experience.

5 I would trust that this does related to every person  
6 within our service territory if they are concerned about  
7 money and how it effects their budget.

8 BY MR. HERSKOVITZ:

9 A Does it also not --- do you know what  
10 subsidization is?

11 A I certainly do.

12 Q Can you explain what that is?

13 A That's when basically other ratepayers pay for  
14 others. There's inequities involved as far as -- I will  
15 give you an example. In a building such at Tiffany  
16 Apartments, if there is a one person who perhaps doesn't  
17 have any electrical appliances other than a refrigerator and  
18 goes to bed in the early hour, doesn't use that many lights,  
19 that person would have a very low electric consumption.

20 If you have a family next door in the same size  
21 apartment that may have every electronic item possible that  
22 they could be using with a high percentage of load hours or  
23 load factor, that could be --- their bill on a separately  
24 metered basis would be far in excess of the first example.

25 In a master metering type of situation, the person

1 that only has the refrigerator on would be subsidizing the  
2 electric bill of a family of three or four people with a lot  
3 of usage.

4 Q Would there have to be any type of work done to  
5 switch from individual metering at this apartment to master  
6 metering?

7 A Sure, there would be. First off, in order to  
8 accomplish this if you were to put in this type of metering,  
9 you would have to actually disconnect the electricity from  
10 the building. The building would have to suffer an outage  
11 and the new metering would have to be put on.

12 Q If that's the case, then the building will be  
13 connected again?

14 A That is correct. In order to --

15 Q To put the master metering in?

16 A -- put the proper metering on, yes, the building  
17 has to be without power and it would be connected again.

18 Q I am going to hand you Plaintiff's Exhibit 5.  
19 Have you seen that?

20 A Yes, I have. I looked over it briefly.

21 Q Is there anything in there that caught your eye  
22 that, based on your experience with Duquesne Light, -- that  
23 is not a valid estimate?

24 A Probably the most dramatic thing that caught my  
25 eye was on the second page where it says in the last

1 paragraph, "Notice the kilowatt hour cost is almost 86  
2 percent higher than the 8.39 cents per kilowatt hour for the  
3 house meter currently."

4 I would disagree with the 8.39 cents per kilowatt  
5 hour for the house meter. I don't think that that would be  
6 the accurate cost based on a 12-month basis, which is the  
7 appropriate way to get the actual dollars per kilowatt hour.  
8 In fact, it looks like during this billing period of  
9 September 18th, 1997, for this complex, the average cost was  
10 16 cents per kilowatt hour on the house meter.

11 Also, going a little bit further, I think an analysis  
12 of this, this is a very small sample. You have the Normandy  
13 Apartments and the Tree Haven Associates. Buildings will  
14 vary dramatically as far as the electrical consumption based  
15 on the type of equipment that is installed, the efficiency  
16 of this equipment, the type of exposure that they receive,  
17 the environment in which they are, the size and shape of the  
18 building, the windows, the number of doors, the type of  
19 insulation, the roofing material. I have different  
20 buildings within my account segment that will vary as much  
21 as \$2 per square foot.

22 Q When you say \$2 per square foot, what do you mean  
23 by that?

24 A That's on an annual energy cost. Some buildings  
25 will be as low as \$1.65 per square foot annual cost, or some

1 of them will go up in excess of \$2 on top of that number,  
2 \$3.65 per square foot. That's for the total energy  
3 consumption for that building.

4 Q Mr. Zollars, you heard Mr. Steiner say it would  
5 be between \$5,000 and \$10,000, his estimate that he got from  
6 an electrician, to do the work to change to master metering.  
7 Would there be any costs from Duquesne Light involved?

8 A There certainly would be. In order to facilitate  
9 his request, there would have to be an estimate given by our  
10 Energy Technology Services, which is pretty much our  
11 metering division at the company.

12 MR. PATTERSON: Objection, hearsay.

13 MR. HERSKOVITZ: Well, Your Honor, he is just saying  
14 what would have to be done. He's not repeating any out of  
15 court statement. I don't understand the objection.

16 MR. PATTERSON: It's hearsay. He's about to testify  
17 to what someone told him.

18 MR. HERSKOVITZ: He didn't...

19 JUDGE GESOFF: Overruled.

20 THE WITNESS: Based on my experience, in order to  
21 facilitate this type of change-out, there are a couple  
22 different scenarios. Either the building owner would have  
23 to purchase the meters from Duquesne Light, and I believe  
24 there are 83 of them plus the house meter, or they would  
25 have to be removed and reclaimed, and this would all be at

1 the expense of the building owner.

2 BY MR. HERSKOVITZ:

3 A Do you, yourself, have an estimate or is that up  
4 to somebody else to decide?

5 A That would probably be up to somebody else to  
6 decide, but I know I have done that and given proposals to  
7 an office building for eight meters, and it came out roughly  
8 to \$3,000 for that type of change.

9 MR. PATTERSON: I'm confused. What type of change?

10 THE WITNESS: That would be a change -- this is for  
11 an office building for a change from a separately metered  
12 environment to a master metered environment.

13 BY MR. HERSKOVITZ:

14 Q With eight meters?

15 A That's correct.

16 MR. HERSKOVITZ: If I could have one moment, Your  
17 Honor?

18 JUDGE GESOFF: Yes.

19 (Counsel reviewing notes.)

20 MR. HERSKOVITZ: That's all I have. Thank you.

21 CROSS EXAMINATION

22 BY MR. PATTERSON:

23 Q Mr. Zollars, you just testified that you were  
24 involved in an office building where meters were changed  
25 from separate meters to a master meter, correct?

1           A    No. The proposal was given. The change was  
2 never effected.

3           Q    But, my question was you were involved in a  
4 situation where the building owner requested that eight  
5 separate meters be changed to one master meter, correct?

6           A    That's correct.

7           Q    And, you provided them with a proposal?

8           A    That's correct.

9           Q    What was the substance of your proposal?

10          A    Basically the substance was to provide a cost to  
11 consolidate eight meters to one house meter.

12          Q    And, you were prepared to do that for that  
13 customer, correct?

14          A    That's correct.

15          Q    When did that occur?

16          A    That occurred last fall.

17          Q    So, there is no flat prohibition then, is there,  
18 against main metering a building, switching from separate to  
19 a main meter?

20          A    In the case of an apartment building, yes there  
21 is. This is an office building, by the way, just to refresh  
22 your memory.

23          Q    Show me in Rule 41 where there is a distinction  
24 made between office buildings and apartment buildings.

25          A    I can cite Rule 18, which is also in our tariff.

1 Q No, we are talking about Rule 41, which is the  
2 rule you used to deny Mr. Steiner's request. I will show  
3 you a copy of that.

4 A Thank you.

5 Q Does it make any distinction between apartment  
6 buildings and office buildings?

7 A I would say yes, because it specifically states  
8 in the first line, "prohibition of residential master  
9 metering," and I don't believe that according to building  
10 ordinances, you are allowed to reside in an office building.

11 Q But, you don't know that to be certain, do you;  
12 you have certainly, in your experience, where there is a  
13 retail or some other establishment on the first floor and  
14 living units upstairs?

15 MR. HERSKOVITZ: I object to the question. He said  
16 this was an office building. It wasn't a combination. It  
17 was an office building.

18 JUDGE GESOFF: It says in Rule 41, "each residential  
19 dwelling unit in the building." Even if you had a mixture,  
20 you would still have a prohibition under Rule 41.

21 BY MR. PATTERSON:

22 Q Your attorney asked you whether there would be  
23 costs to Duquesne Light to change over from separate meters  
24 to master metering, and I believe your...

25 A Could you repeat that, sir?

1 Q Whether there would be any cost associated with  
2 changing the meters, cost to Duquesne Light, and then I  
3 believe your response was that there wouldn't be. Is that  
4 correct?

5 A That there...

6 Q Would not be.

7 A No, there would be cost.

8 Q What would be the cost associated with that?

9 A As I just mentioned, we would have to get an  
10 exact proposal from our Energy Technology Services to find  
11 out what it would take to facilitate this request.

12 Q But, didn't you testify regarding the meters that  
13 the landlord or the owner of the building would have to buy  
14 the meters?

15 A There's a possibility that the landlord would  
16 have to buy the meters or they would have to be taken out  
17 and reclaimed, and provisions would have to be taken to  
18 ensure the meter sockets that are left.

19 Q So, you might have some labor costs involved?

20 A Certainly.

21 Q You would also lose revenue, though, correct?

22 A In a master metering situation?

23 Q Yes.

24 A Yes, we would be losing revenue.

25 Q Do you know how much Duquesne Light would lose in

1 revenue if this building were master metered?

2 A No, I do not. That is something that all depends  
3 on the amount of usage before and after a metering change-  
4 out of this type, and it's impossible to determine that at  
5 this point in time from any type of analysis.

6 Q So, in other words, it is impossible to know at  
7 this point in time whether or not usage would increase or  
8 decrease in this building if it were master metered,  
9 correct?

10 A Could you say that again, please?

11 MR. PATTERSON: Could you repeat that, please?

12 COURT REPORTER: So, in other words, it is impossible  
13 to know at this point in time whether or not usage would  
14 increase or decrease in this building if it were master  
15 metered, correct?

16 THE WITNESS: That is correct.

17 BY MR. PATTERSON:

18 Q Also, if it could be shown that master metering a  
19 building complied with sections of PURPA regarding  
20 conservation, that would abrogate the necessity of Rule 41,  
21 would it not?

22 A Can you explain what abrogate means?

23 Q Well, you wouldn't need it any more, or it  
24 wouldn't be useful in other words.

25 A If it could be fairly shown that the statements

1 that Mr. Herskovitz had me read as far as the conservation  
2 of electric energy were met, those provisions -- I'm not an  
3 attorney by any means, but possibly that could be  
4 eliminated, Rule 41.

5 Q You don't know any of the people in this  
6 building, correct; you don't know their energy usage,  
7 patterns?

8 A No, I do not, although I do understand there is a  
9 high percentage of senior citizens.

10 Q Is it your experience with regard to that that  
11 senior citizens seem to be more conscientious about  
12 conserving electricity?

13 A I would agree with that statement.

14 Q You indicated in reviewing Mr. Steiner's Exhibit  
15 Number 5, that -- you mentioned a 16 cents figure. Where  
16 did you get that figure?

17 A I actually pulled that off of our billing system,  
18 and that's an average taken for one month. The meter  
19 reading date would be September 18th, 1997.

20 Q Which building?

21 A This would be 925 California Avenue.

22 Q The 16 cents is for which meter, do you know?

23 A That would be for account number 3000468448001.  
24 I'm sorry, that's the account for the prior building owner.  
25 Originally when I was looking into this account, was given

1 the account number from Mr. Steiner, the present building  
2 owner, and that was prior to his purchase of the building.

3 Q So, that service was for what year; was that a  
4 full year?

5 A No, that was a one-month period.

6 Q Which month?

7 A From August of 1997 to September of 1997.

8 MR. STEINER: That can't be right. I think you have  
9 the wrong meter. The account numbers don't change.

10 MR. HERSKOVITZ: Your Honor, I would request that the  
11 complainant --

12 THE WITNESS: I am looking at something off of our  
13 billing system.

14 MR. HERSKOVITZ: -- go through the proper procedure.

15 JUDGE GESOFF: Yes. I think it's a good idea, even  
16 though you are a lawyer, you are not representing anybody  
17 here.

18 MR. HERSKOVITZ: Thank you, Your Honor.

19 BY MR. PATTERSON:

20 Q Do your bills indicate which meter we are talking  
21 about?

22 A Not this billing sheet I have in front of me.

23 Q Can we look at your document?

24 A You certainly may. May I look at your document?

25 Q Yes, you can have that one.

1 A Thank you.

2 Q You picked out what is essentially is the highest  
3 kilowatt hour month on the list, correct?

4 A That is correct.

5 Q And, what is the lowest on there?

6 A The lowest looks like seven cents on average.

7 Q Did you average out...

8 A No, that's just for one month. I'm sorry.

9 However, if you are asking for an average, it's in excess of  
10 -- I would have to total the whole 12-month period.

11 Q If we could have your document back, we could  
12 average it out.

13 A I could do that for you if you like.

14 Q Okay.

15 A I may take some time here.

16 Q That's fine.

17 (Witness calculating figures.)

18 A Based on my calculation here, which hopefully is  
19 correct, I came up with an average of 9.15 cents per  
20 kilowatt hour which is more than the 8.39 cents per kilowatt  
21 hour that is listed in Exhibit 5 in the last paragraph.

22 Q Thank you for doing that. What your analysis  
23 shows and your experience is that the more electricity that  
24 is use, the cost comes down, correct?

25 JUDGE GESOFF: Cost per kilowatt hour.

1 MR. PATTERSON: I'm sorry, Your Honor.

2 BY MR. PATTERSON:

3 Q Cost per kilowatt hour comes down, correct?

4 A That depends on the load factor. It all depends  
5 on the type of environment.

6 Q But, looking at your list, the more used means  
7 the cost per kilowatt hour comes down, correct?

8 A Yes; on this rate schedule, yes.

9 Q You indicated earlier in your direct testimony  
10 that people with individually metered unit tend to conserve  
11 more, correct?

12 A Yes.

13 Q Wouldn't the reverse also be true, or do you have  
14 any way to dispute the assumption that people who are in  
15 main metered building don't conserve as much as people in  
16 separately metered buildings?

17 A Sure. Specifically based on the PURPA Act in  
18 1978, which addressed these issues for residential  
19 dwellings, I'm sure that the research was performed that  
20 would indicate that there is conservation in a separately  
21 metered situation.

22 Q I think you will agree with me, though, that  
23 since PURPA was established in 1978, there have been great  
24 strides in getting people to conserve energy, correct; they  
25 are more aware of it now than they were then?

1           A    I would say that people are aware of energy  
2 conservation.

3           MR. PATTERSON:  That's all I have.

4           MR. HERSKOVITZ:  Just a quick follow-up, Your Honor.

5           JUDGE GESOFF:  Sure.

6                               REDIRECT EXAMINATION

7           BY MR. HERSKOVITZ:

8           Q    Are there other senior apartment buildings that  
9 you are aware of on Duquesne Light's system?

10          A    Sure, specifically one for elderly citizens at  
11 the Saint Barnabas Retirement Village.

12          Q    Are they individually or master metered?

13          A    They are individually metered.  In fact, it seems  
14 that a lot of apartment owners tend to want to go from a  
15 master metering situation to a separately metered situation  
16 because it is -- number one, I think it's easier for the  
17 building owner in that they don't have the responsibility of  
18 a utility bill and they put the emphasis of energy  
19 conservation on the tenants themselves.

20          MR. HERSKOVITZ:  That's all I have.  Thank you.

21          MR. PATTERSON:  I have a quick question on rebuttal,  
22 Your Honor.

23          JUDGE GESOFF:  All right.  Mr. Zollars, you are  
24 excused.

25   (Witness excused.)

1 Whereupon,

2

CLARENCE H. STEINER

3 having previously been duly sworn, testified further as  
4 follows:

5

REDIRECT EXAMINATION (Continued)

6

BY MR. PATTERSON:

7

Q Mr. Steiner, would you be requesting that this  
8 building be master metered if you felt that the electric  
9 consumption would increase?

10

A No.

11

Q Why is that?

12

A Well, if the electric consumption increases, even  
13 though you are getting it at a lesser rate, obviously an  
14 increase is going to cost that rate times the increase in  
15 usage, so it will cost more money and wouldn't be an  
16 effective or efficient thing to do.

17

Q Regarding the structure itself as it compares to  
18 the two buildings which you conducted the analysis on,  
19 explain for the Court whether they are similar or not.

20

A To begin with, the two buildings that are the  
21 subject of the analysis, the reason I put them together is  
22 they are so similar. Counsel for Duquesne Light suggested  
23 they were very different. I'm sorry, Mr. Zollars did.

24

They are built identical construction, 1950, along  
25 Fifth Avenue there. They both have gas furnaces so there is

1 no electric heat involved. They all have gas ranges, so  
2 there is no difference between there. They all have one  
3 refrigerator per apartment. They all have new windows.  
4 They all have a new roof.

5 Because they are so similar is the reason I included  
6 them in that Exhibit Number 5, to point out -- obviously we  
7 wouldn't be doing this if there wasn't a good reason to do  
8 it, and that's basis for our reasoning to do it.

9 The Tiffany Apartments, again it's gas heat, so the  
10 electric -- whether the building is insulated or not  
11 insulated as well as the buildings on Fifth Avenue really  
12 doesn't come into play since there is no electric heating  
13 involved, but it is similar construction, brick masonry  
14 construction.

15 Again, the electric usage in all the buildings is for  
16 appliances and lights and it's not for anything else.

17 MR. PATTERSON: That's all I have.

18 RE CROSS EXAMINATION

19 BY MR. HERSKOVITZ:

20 Q Do you know whether or not any of these residents  
21 in the apartment building would use an electric space heater  
22 during the winter?

23 A In which building?

24 Q Any building?

25 A I do know that at the Normandy, we have, I think,

1 two space heaters because a radiator may -- from time to  
2 time to time we lend the tenants a space heater, but that  
3 would be the building that we pay all the utilities in.

4 Q What I am asking is do you know if the tenants --  
5 okay, you told me what you did. What about the tenants;  
6 have you been in the apartments during the winter; have you  
7 asked any if --

8 A I'm not -- my...

9 Q -- they use electric space heaters? We are  
10 talking about seniors now.

11 A Yes.

12 Q Do they use electric space heaters?

13 A You are talking about the Tiffany Apartments, the  
14 seniors building?

15 Q Okay, let's look at the Tiffany Apartments.

16 A I personally have never seen an electric space  
17 heater in the apartments.

18 Q You don't know, do you, if they use them?

19 A I don't know for a fact, but I do know that the  
20 building is a rather warm building, and if we ever get  
21 complaints, it's that the building is too warm.

22 Q Do you know if there are any space heaters used  
23 in the other two buildings that you referred to?

24 A I mentioned that the Normandy...

25 Q I mean by the tenants?

1           A    I personally do not know. My maintenance  
2 staff...

3           Q    That's what I asked, whether you know. As a  
4 matter of fact, you don't what the tenants use in there, do  
5 you?

6           A    I know they have refrigerators and I know they  
7 have lights. Most of them have TVs. Many of them have  
8 microwaves.

9           Q    Computers, stereo systems?

10          A    Especially on Fifth Avenue, almost all, I would  
11 say, have computers and stereo systems.

12          Q    But, you don't know who does and who doesn't?

13          A    No.

14          Q    Some may have it, some may not?

15          A    No, I don't know for sure.

16          Q    Some may use 100 kilowatt hour per month, some  
17 may use 300 kilowatt hour per month. You don't know, right?

18          A    The only thing...

19          Q    I'm asking a question, do you know?

20          A    I'm telling you one thing I do know.

21          JUDGE GESOFF: Answer yes or no.

22          BY MR. HERSKOVITZ:

23          Q    Yes or no, do you know whether certain tenants  
24 use 100 kilowatt hour a month and certain others use 300?

25          A    No, I don't.

1 Q You don't know their usage, period, right?

2 A That's correct. In the main metered buildings,  
3 that's correct. In the separately metered buildings, I did  
4 call Duquesne Light and got some estimates about their  
5 budget amount, so in that case, I would know.

6 Q You only knew ten; is that correct?

7 A That's correct.

8 Q And, you don't know how they will act once the --  
9 as your counsel asked my witness, you don't know what the  
10 usage will be afterwards; they may go hog wild, they may  
11 not, as far as electric usage, right?

12 A I would agree.

13 MR. HERSKOVITZ: That's all I have. Thank you.

14 JUDGE GESOFF: I have one question. You had  
15 mentioned that one of the two buildings in Exhibit 5 has gas  
16 heat.

17 THE WITNESS: They both do. They are virtually  
18 identical. They both have gas heat with one electric pump.  
19 There are 21 units in the separately metered building, 22  
20 units in the...

21 JUDGE GESOFF: Time out. The gas heat in these  
22 buildings, there's only one gas...

23 THE WITNESS: Boiler.

24 JUDGE GESOFF: Boiler, okay. Thank you.

25 MR. HERSKOVITZ: I would just follow up on that.

1 JUDGE GESOFF: All right.

2 BY MR. HERSKOVITZ:

3 Q Do they have central air in those buildings?

4 A No. In fact, at the centrally metered building,  
5 the Normandy Apartments, probably ten units -- actually,  
6 it's a double building, so I am just giving you one half of  
7 it, the 22-unit side.

8 Probably five units do have air conditioners during  
9 the summertime, so that's actually included in that \$29,  
10 that air conditioning use for five units, for roughly a  
11 quarter of the units for that building. We charge the  
12 tenants \$30 a month during the summer months for that.

13 JUDGE GESOFF: You are talking when you haven't been  
14 asked a question.

15 Do you have anything else, Mr. Herskovitz?

16 MR. HERSKOVITZ: One second, Your Honor?

17 JUDGE GESOFF: Sure.

18 (Mr. Herskovitz conferring with Mr. Zollars.)

19 BY MR. HERSKOVITZ:

20 Q Do you know whether or not the tenants at Tiffany  
21 Apartments want air conditioning?

22 A I know for a fact that they do want air  
23 conditioning.

24 Q All of them?

25 A Well, the building is centrally air conditioned.

1 My impression would be if they don't want air conditioning,  
2 they have two options. They can move out of the building or  
3 they can just not open their vents.

4 Q If they don't open their vents, then they would  
5 be paying for somebody else using the air conditioning; is  
6 that correct?

7 A They already are. That's the existing system.  
8 That's the existing layout.

9 Q And, under master metering, they may pay for  
10 other things besides air conditioning, correct, --

11 A They will all...

12 Q -- that they don't use that someone else uses?

13 A They will all jointly pay for their -- no, under  
14 my -- my proposal to the tenants is that they bring their  
15 budget bill to me. If Apartment A has a \$35 a month bill, I  
16 will increase his rent \$30. If Apartment comes up with an  
17 \$18 bill, I will increase their rent \$16.

18 Q What do you do for a new tenant?

19 A We will have a set rate schedule.

20 Q How will you know what his usage is?

21 A Well, we won't know. The other alterative is, as  
22 Mr. Zollars mentioned, is to keep the meters in and read  
23 them ourselves and bill them directly.

24 As I understand, as long as we don't surcharge  
25 anything additional on it or don't charge them more than

1 what we are being charged, that is allowable under the  
2 Duquesne Light system, but there we have to buy the meters  
3 from Duquesne Light.

4 MR. HERSKOVITZ: Thank you.

5 MR. PATTERSON: That's all I have.

6 JUDGE GESOFF: You are excused. Thank you.

7 (Witness excused.)

8 Do you wish to file briefs, make closing arguments,  
9 do both, do neither?

10 MR. HERSKOVITZ: I will defer to the complainant.  
11 It's their case. I will do whatever they want to do.

12 MR. PATTERSON: I would like to make a closing  
13 argument, Your Honor. I don't see the necessity for briefs  
14 unless you want them.

15 JUDGE GESOFF: No; closing arguments are fine.

16 MR. PATTERSON: Essentially my argument is that there  
17 is no flat prohibition against master metering as shown by  
18 the testimony, Rule 41 itself and the Acts supplied to Your  
19 Honor from 16 US Code 2601 et sec, otherwise known as PURPA.

20 I believe there is a balancing test to be applied  
21 which takes into account the long-run benefits to the  
22 customers as well as the equitable rates for consumers. I  
23 think we have shown through testimony and evidence that the  
24 tenants in this building would benefit in the long run from  
25 master metering, both in the ability to have one bill

1 monthly for their rent and utilities as well as the volume  
2 discounts passed on to the tenants as a result of the  
3 purchase of electricity through one meter from Duquesne  
4 Light by the landlord.

5 In addition, according to Rule 41, it prohibits  
6 master metering only for buildings connected after 1981. I  
7 believe it has to be fairly read to include an exception for  
8 buildings that were connected prior to 1981.

9 In fact, I believe the last sentence of Rule 41  
10 supports my argument being that it says, "This Rule shall  
11 not effect any practice undertaken prior to January 1st,  
12 1981." I read that to mean that in other words, you could  
13 -- a practice prior to 1981 would be converting individual  
14 meters to a separate meter. That would be a practice, I  
15 would argue, under Rule 41. Therefore, that practice would  
16 continue for buildings connected prior to 1981.

17 I believe that we fit into this exception given the  
18 fact that we have shown that the building was connected  
19 prior to 1981, and I think also energy conservation and  
20 deregulation have somewhat reduced the necessity of Rule 41  
21 since people are more attuned to conserving energy. I think  
22 seniors do it more often than young people do, frankly.

23 Duquesne Light has in fact admitted that there's a  
24 grandfather exemption in this case. I believe that if there  
25 is a grandfather exemption, we fit under it. Thank you.

1 JUDGE GESOFF: Thank you.

2 MR. HERSKOVITZ: Your Honor, several comments; I  
3 start off with three words, conservation, subsidization and  
4 discrimination. The reason for this rule is conservation  
5 primarily.

6 You save energy. How do you save energy? You know  
7 what you use. Energy is not a bottomless pit. Just like  
8 you had the oil shortage back in the 1970s, one of these  
9 days there may be a shortage of energy. Conservation is the  
10 key, and the only way you can conserve is to know what you  
11 use, and the only way you know what you use is to be  
12 individually metered. That is the real reason for Rule 41.

13 Subsidization comes into play. If you are master  
14 metered and you use a refrigerator and a night light and the  
15 person next door to you uses every electrical gadget in the  
16 book from computers to stereos and never turns the lights  
17 out, the person who just uses the one light and turns it out  
18 and night and has a refrigerator will be paying some of the  
19 bill of the person next to them.

20 Another reason for the Rule, that if you should be  
21 individually metered, discrimination. Other senior centers,  
22 senior apartments, are individually metered. To allow this  
23 apartment complex to be master metered would discriminate  
24 against the other ones similarly situated.

25 The Rule 41 does say, "The Rule shall not effect any

1 practice undertaken prior to January 1, 1981." The  
2 complainant, who has the burden of proof, didn't -- there is  
3 no evidence what the practice was prior to 1981.

4 I submit that conservation was certainly an issue,  
5 but the complainant never said how -- how Mr. Patterson can  
6 argue that the practice was in 1981 was allowing switches to  
7 individual metering to master metering is beyond me. There  
8 wasn't anything in anybody's testimony about switching prior  
9 to 1981 and what the practice was.

10 As far as education about energy, I'm sure that there  
11 is better education out there, but there's no proof that  
12 people practice what has been preached to them. There's no  
13 proof that people are going to conserve.

14 The experience of Duquesne Light, as through  
15 Mr. Zollars, is the reverse. If you aren't individually  
16 metered and you don't know what you are using, you tend to  
17 use more of it. I think that's common knowledge. That's  
18 based on anybody's individual practice with regard to  
19 energy.

20 As far as grandfathering, I think the plaintiffs  
21 don't know the definition of grandfathering. Grandfathering  
22 is, and maybe this will clarify it out of Black's Law  
23 Dictionary, "A provision in a new law or regulation  
24 exempting those already in or a part of the existing system  
25 which is being regulated." More importantly and clearer,

1 "An exception to a restriction that allows all those already  
2 doing something to continue doing it even if they would be  
3 stopped by the new restriction."

4 That's not what we have here. They are not --  
5 individual metering is not being prohibited by this rule.  
6 Grandfathering is not the proper way to describe whatever  
7 the ruling is that the complainants want. They are not  
8 grandfathered into this Rule.

9 Grandfathering would be those that were already  
10 master metered prior to the Rule, and they will stay master  
11 metered. Even though it is now prohibited, they can stay  
12 master metered. They are grandfathered. It effects those  
13 that are master metered, not those that are individually  
14 metered.

15 I just conclude by saying the three words that I  
16 started with, conservation, subsidization and  
17 discrimination. That's the reason for the Rule, and we  
18 would be regressing if we said that there's no need for  
19 conservation now because everybody is more informed about  
20 it. That doesn't make sense to me.

21 If you want to play on words, if you want to say  
22 buildings connected after January 1, 1981, well we can play  
23 on words too. If you are disconnected to change the system,  
24 then you will be connected after 1981 when you get master  
25 metered, so you are being connected. Even though it's

1 connected again, you are being connected.

2 Maybe it's a poor choice of words, but the intent is  
3 there. It's clear what the reason for it is, and there is  
4 no reason to change it. That's all I have.

5 JUDGE GESOFF: You have the burden of proof, so you  
6 can speak last if you wish.

7 MR. PATTERSON: I would have nothing to add, thank  
8 you, Your Honor.

9 JUDGE GESOFF: You will get my decision in due  
10 course, as they say.

11 MR. HERSKOVITZ: Thank you, Your Honor.

12 MR. PATTERSON: Thank you.

13 JUDGE GESOFF: The hearing is adjourned.

14 (Whereupon, at 11:45 a.m., the hearing was  
15 adjourned.)

1

C E R T I F I C A T E

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I hereby certify, as the stenographic reporter, that the foregoing proceedings were reported by me and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

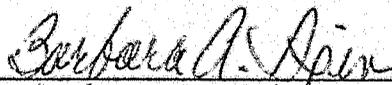
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KEENAN REPORTING COMPANY

8

9

BY:

  
Barbara A. Spin  
Barbara A. Spin

BOROUGH OF AVALON

DEPARTMENT OF BUILDING INSPECTION

DOCUMENT FOLDER

Plan No. \_\_\_\_\_

Permit No. 115

Application for Erection of Buildings

Application is hereby made to the Department of Building Inspection of the Borough of Avalon, for the approval of plans, herewith submitted, for the erection of the building or buildings herein described. All provisions of the Building Laws and Ordinances shall be complied with in the erection of said building or buildings, whether specified herein or not.

(Sign Here) J. Meyer Saey

Avalon, Pa. 712 1562

DETAILED STATEMENT OF SPECIFICATIONS FOR THE ERECTION OF NEW BUILDINGS

State buildings to be erected Apartment No. stories 6
Material of building Masonry
To be used for Dwellings
No. families 84 No. rooms 2nd
Give street or avenue, and number on street and nearest cross street 925 California Ave.
Home Avenue
Size of lot, No. of feet front 145; Feet rear 145; Feet deep 177.8
Size of building, No. feet front 126.8; Feet rear 126.8; Feet deep 108
No. of feet in height front sidewalk or surface of ground to highest point of roof 63
Height of cellar or basement 8; 1st story 8; 2nd 8; 3rd 8; 4th 8
Depth of foundation walls from curb level or surface of the ground 6
Will foundation be laid on earth, rock or piles earth
Will cellar be under entire building yes
Material of foundation Masonry Thickness 16-12
Thickness of external walls 16; 1st story 16; 2nd 12; 3rd 12; 4th 12
Size of girder or beam See plans Set on Masonry
Construction of chimney Masonry Metal
With what materials walls to be erected Flat Metal
Will roof be flat, pitched or mansard Flat Material of roofing Asphalt
What will be the means of access to roof door - scullie
What will be the materials of cornices
Are there any holstways or elevators yes How protected masonry
How is building heated gas
Size of joists or beams 8; 2nd 8; 3rd 8; 4th 8
Ceiling joists rafters Centers Solid
Will fire escape be provided yes
How many buildings to be taken down 2
Will there be any projection beyond building line No
Cost of building \$ 600,000

If the Building is to be occupied as an Apartment or Tenement House give additional particulars as follows:

State how many families are to occupy each floor, and the whole number in the house; also if any part is to be used as a store or for other business purposes, state the fact 14 each floor
How are the hall partitions to be constructed, and of what materials 12" masonry
How are the stairways to be constructed, and of what materials masonry
Owner Hermitage Inc. Address 1st Parkridge Lane
Contractor Same Address Phila. Pa 15122

Work was commenced on the within described building on the day of 19 and completed on the day of 19 and has been done in accordance with the plans and specifications, except as noted below

Respectfully, Robert Friedman Inspector

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PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

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STEINER REALTY  
121 EDGEWOOD AVENUE  
PITTSBURGH, PENNSYLVANIA 15218

(412) 242-0273  
(412) 242-0287 (FAX)

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

November 20, 1997

Mr. William Zollars  
Duquesne Light Co.  
411 Seventh Avenue  
Mail Drop 7-899  
Pittsburgh, PA 15219

RE: Tiffany Apartments, main metering request

Dear Bill,

As we discussed on the phone, I have an agreement to purchase the Tiffany Apartments in January 1998. Part of the plan of purchase was to "main meter" the property to realize volume discounts for electric use that would benefit the building and the tenants. In addition, we have found that apartment renters, especially senior citizens, prefer all utilities included as it eliminates the uncertainty of utility costs as well as the hassle of bill paying.

I was rather surprised when I contacted you yesterday and was informed of an archaic rule 41 of the PUC which prohibits the main metering of a building! You mentioned the rule was instituted in 1981 during the energy crisis years under the theory that people conserve more when they are paying directly for electric usage than when the cost of the usage is included in their rent as in "main metered" buildings. As I manage a mix of "main metered" and non main-metered buildings, I do not find strong proof of this theory in practice.

However, the rule does not apply in the case of the Tiffany. The rule states that main metering is prohibited for residential dwelling units connected after 1981. The Tiffany was constructed and "connected" in 1965, thus is exempt from the regulation. I hereby request authorization and assistance to proceed with the main metering of the Tiffany Apartments after closing in January.

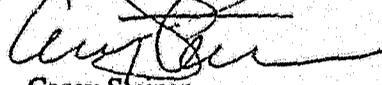


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The reason I had called yesterday was to find out Duquesne Light's procedure and requirements to proceed. Please let me know what is involved in removing the existing meters, installing a new main meter and any upgrading of service required to complete the job. I would want to coordinate your specifications and requirements with my electrician who would do the work.

If there is any problem with my request please respond in writing to the address above. Thank you for your assistance in this matter.

Very truly yours,



Casey Steiner



**Duquesne Light**

411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

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(412) 393-6000

January 2, 1998

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Mr. Casey Steiner  
Steiner Realty  
121 Edgewood Avenue  
Pittsburgh, PA 15218

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Tiffany Apartments  
Master Metering Request

Dear Mr. Steiner:

I am writing this letter in response to your letter dated November 20, 1997 specifically requesting the master metering of the Tiffany Apartments, in which you intend to purchase.

It certainly has been a pleasure talking with you on the phone regarding this request. Throughout our conversations, I have referenced Rule 41 from the Duquesne Light Company Tariff which prohibits residential master metering. This Rule of our Tariff was the direct result of the Public Utility Commission's Rules and Regulations that became effective July 20, 1984. These regulations comply with the Building Conservation Act 222.

Although we strive to ensure customer satisfaction, we recognize that it is also our responsibility is to operate within the Rules and Regulations of our Tariff. It is for this reason, we cannot honor your request for master metering.

If you have any questions or need additional information regarding this issue, please feel free to call me at (412) 393-6020.

Sincerely,

William C. Zollars  
Account Representative

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**RULES AND REGULATIONS - (Continued)**

**DISCONTINUANCE, CURTAILMENT OR INTERRUPTION OF ELECTRIC SERVICE - (Continued)**

**41. PROHIBITION OF RESIDENTIAL MASTER METERING** Each residential dwelling unit in a building must be individually metered by the Company for buildings connected after January 1, 1981. For the purposes of the Rule, a dwelling unit is defined as:

One or more rooms for the use of one or more persons as a housekeeping unit with space for eating, living, and sleeping, and permanent provisions for cooking and sanitation.

This Rule does not preclude the use of a single meter for the common areas and common facilities of a multi-tenant building.

This Rule shall not effect any practice undertaken prior to January 1, 1981.

**GENERAL PROVISIONS**

**42. METER TESTING** The Company will inspect or test the accuracy of a meter at the request of the customer for whom the meter registers service, but reserves the right to require payment of the fees set forth in 52 Pa. Code § 57.22 for such test.

**43. OTHER SERVICES** The Company may, where possible, provide and charge a reasonable fee for services including, but not limited to, energy audits, equipment inspections, technical reports and other similar services, at the request of the customer. Where possible, the Company will give an advanced, written estimate of the cost to provide the service.

**44. SURGE PROTECTION SERVICE** Surge Shield™, a surge suppression device that will reduce or eliminate voltage surges, is available to customers pursuant to the terms and conditions set forth below. The device is mounted behind the meter socket at the customer's premise. (C)

**A. Availability**

The Company will provide Surge Shield™, to any customer with a 120/240 volt single-phase meter upon request, provided that the customer is determined by the Company to have an acceptable credit history.

**B. Billing**

A charge of \$4.65 per month for Surge Protection Service will be billed quarterly for a total of \$13.95. (One hundred and forty customers who elected monthly billing in the initial stage of the pilot program were subsequently offered a \$0.25 per quarter discount to accept quarterly billing. This discount will remain in effect for those customers.) At the Company's option, monthly billing may be offered in the future.

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Electric usage analysis

Normandy Apartments  
5530 Fifth Avenue, 22 unit building, electric bill is for house lights, all apartment electric usage and furnace pumps

Treehaven Associates, 5540 Fifth Avenue, 21 unit building, electric bill is for all house lights and furnace pumps, but not apartment electric.

Comparison of electric bills for period of March 20 to April 21, 1998.

	Treehaven	Normandy
KWH	2064	6500
COST	219.91	590.85
Cost/KWH	\$0.107	\$0.091

Presume that the usage for house lights for each building is equal, i.e., 2064 KWH for each. Thus, the electric usage for the 22 apartments at the Normandy is 4436 KWH. The average for each apartment is 201.64 KWH for this period.

Under DLCO tariff for RS residential service the cost per average unit use would be as follows:

Service fee	6.38
usage charge 201.64 @ 11.66 cents/KWH	23.51
Energy Cost Rate Credit .3628/kwh	(\$0.73)
monthly cost	\$29.16
per KWH cost	\$0.145

Multiplying this per apartment unit average by the 22 apartments brings the cost for apartment usage only to \$641.52 add to this the \$219.91 cost that Treehaven Apartments incurred for house lights during March/April period, the total payment to DLCO if the Normandy Apartments were not main metered comes to \$861.43, \$270 more than we pay buying in bulk, almost 46% higher than the main-metered bill of \$590.85.

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The Tiffany Apartments use much more electricity than the Normandy Apartments, especially during the summer. The volume discount will be even higher. The per KWH cost at the Tiffany Apartments is 8.39 cents/KWH for the June 20, 1997 to July 22, 1997 reading period as compared to the Normandy per KWH cost of 9.11 cents/KWH. This 8.5 percent discount rate should be higher if all of the electric usage at the Tiffany Apartments is main metered.

To illustrate the impact on the Tiffany Apartment tenants, who in general, use less electric than the Normandy Apartments, I have estimated the 83 separately metered units with a usage of 150 KWH per month.

Under DLCO tariff for RS residential service the cost per average unit use would be as follows:

Service fee	6.38
usage charge 150 KWH @ 11.66 cents/KWH	17.49
Energy Cost Rate Credit .3628/kwh	(\$0.54)
monthly cost	\$23.33
per KWH cost	\$0.156

Notice the KWH cost is almost <sup>86</sup>~~100~~% higher than the 8.39 cents/KWH for the house meter currently. The estimated cost to the building of the usage of the 83 units if they were main-metered at a cost of 8.39 cents/KWH would be \$1,044 per month. Compare this costs to the tenant cost of \$23.33 times 83 units or \$1,936.39. To state that the low consumption users are not being penalized is wrong.

## § 2601. Findings

The Congress finds that the protection of the public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require—

- (1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resources by electric utilities, and equitable retail rates for electric consumers,
- (2) a program to improve the wholesale distribution of electric energy, the reliability of electric service, the procedures concerning consideration of wholesale rate applications before the Federal Energy Regulatory Commission, the participation of the public in matters before the Commission, and to provide other measures with respect to the regulation of the wholesale sale of electric energy,
- (3) a program to provide for the expeditious development of hydroelectric potential at existing small dams to provide needed hydroelectric power,
- (4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable,
- (5) a program to encourage the development of crude oil transportation systems, and
- (6) the establishment of certain other authorities as provided in title VI of this Act.

(Pub.L. 95-617, § 2, Nov. 9, 1978, 92 Stat. 3119.)

## Historical Note

References in text. This Act, referred to in par. (6), is Pub.L. 95-617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. Title VI of this Act enacted sections 824a-4 and 2645 of this title and sections 717x to 717z of Title 15, Commerce and Trade, amended section 717f of Title 15 and sections 1311, 1312, and 1314 to 1316 of Title 30, Mineral Lands and Mining, and enacted provisions set out as a note under section 2621 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables volume.

Codification. This section was not enacted as part of Title I of Pub.L. 95-617, which comprises this chapter.

Short Title. Section 1 of Pub.L. 95-617 provided that: "This Act [which enacted this

chapter, and sections 823a, 824a-1 to 824a-4, 824i to 824k and 825q-1, and 2701 to 2708 of this title, sections 717x of 717z and 3201 to 3211 of Title 15, Commerce and Trade, section 6808 of Title 42, The Public Health and Welfare, and sections 2001 to 2012 of Title 43, Public Lands, amended sections 796, 824, 824a, 824d and 825d of this title, section 717f if Title 15, sections 1311, 1312 and 1314 to 1316 of Title 30, Mineral Lands and Mining, and section 6801 to 6807 of Title 42 and enacted provisions set out as notes under sections 824, 824a, 824d, 825d, and 2621 of this title] may be cited as the 'Public Utility Regulatory Policies Act of 1978'."

Legislative History. For legislative history and purpose of Pub.L. 95-617, see 1978 U.S. Code Cong. and Adm. News, p. 7659.

## Code of Federal Regulations

General rules of Federal Energy Regulatory Commission, see 18 CFR 375.101 et seq., 385.101 et seq.

Loans for development of wind energy systems and small hydroelectric power projects, see 10 CFR 794.1 et seq.

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CONSERVATION Ch. 46

Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables volume.

Codification. This section was not enacted as part of Title I of Pub.L. 95-617, which comprises this chapter.

Legislative History. For legislative history and purpose of Pub.L. 95-617, see 1978 U.S. Code Cong. and Adm. News, p. 7659.

Library References

Monopolies ⊕9.  
C.J.S. Monopolies § 17 et seq.

SUBCHAPTER I—RETAIL REGULATORY POLICIES FOR  
ELECTRIC UTILITIES

Cross References

Jurisdiction of United States court over action arising under this subchapter, see section 2633 of this title.  
Proceedings commenced prior to Nov. 9, 1978, to substantially conform with requirements of this subchapter, see section 2634 of this title.

§ 2611. Purposes

The purposes of this chapter are to encourage—

- (1) conservation of energy supplied by electric utilities;
- (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and
- (3) equitable rates to electric consumers.

(Pub.L. 95-617, Title I, § 101, Nov. 9, 1978, 92 Stat. 3120.)

Historical Note

References in Text. This chapter, referred to in text, in the original read "this title", meaning Title I (section 101 et seq.) of Pub.L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health

and Welfare. For complete classification of Title I to the Code, see Tables volume.

Legislative History. For legislative history and purpose of Pub.L. 95-617, see 1978 U.S. Code Cong. and Adm. News, p. 7659.

Cross References

Seasonal diversity exchange of electric power to and from Canada if furtherance of purposes under this section found, see section 824a-4 of this title.

Library References

Electricity ⊕1, 11 to 11.5.  
C.J.S. Electricity §§ 1 et seq., 24 to 37.

Notes of Decisions

1. State regulation or control

This subchapter and section 3201 et seq. of Title 15 directing state to consider specified rate-making standards do not violate U.S. C.A. Const. Amend. 10, but merely estab-

lished requirements for continued state activity in otherwise preemptible field and require only consideration of federal standards and if the state has no commission or simply stops regulating it need not even entertain the fed-

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§ 2623. Adoption of certain standards

(a) Adoption of standards

Not later than two years after November 9, 1978, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall provide public notice and conduct a hearing respecting the standards established by subsection (b) of this section and, on the basis of such hearing, shall—

(1) adopt the standards established by subsection (b) of this section (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this chapter, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) of this section if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 2623 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

(b) Establishment

The following Federal standards are hereby established:

(1) Master metering

To the extent determined appropriate under section 2625(d) of this title, master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this chapter.

(2) Automatic adjustment clauses

No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 2625(e) of this title.

(3) Information to consumers

Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 2625(f) of this title.

(4) Procedures for termination of electric service

No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 2625(g) of this title.

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## standards

## ion of standards

November 9, 1978, each State regulatory authority for an electric utility for which it has ratemaking authority, shall provide public notice of the standards established by subsection (b) of this section, shall—

established by subsection (b) of this section (b) if, and to the extent, such authority determines that such adoption is appropriate under the provisions of this chapter, is otherwise appropriate, or otherwise applicable State law, and

established by subsection (b) (4) of this section, such authority or nonregulated electric utility shall determine if such adoption is appropriate and consistent with

under paragraphs (1) or (2) and any other law, any court in accordance with section 2625(d) of this chapter supplement otherwise applicable law. This section prohibits any State regulatory authority from making any determination to adopt any such standard, pursuant to this section, unless the State law.

## establishment

are hereby established:

## metering

appropriate under section 2625(d) of this chapter, in the case of new buildings, shall be adopted to the extent necessary to carry out the

## adjustment clauses

increase any rate pursuant to an automatic adjustment clause meets the requirements of section 2625(g) of this chapter.

## transmission to consumers

transmit to each of its electric consumers the rates and schedules in accordance with the requirements of this title.

## termination of electric service

terminate electric service to any electric utility in accordance with the procedures described in section 2625(g) of this chapter.

## (5) Advertising

No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 2625(h) of this title.

## (c) Procedural requirements

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility, within the two-year period specified in subsection (a) of this section, shall (1) adopt, pursuant to subsection (a) of this section, each of the standards established by subsection (b) of this section or, (2) with respect to any such standard which is not adopted, such authority or nonregulated electric utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

(Pub.L. 95-617, Title I, § 113, Nov. 9, 1978, 92 Stat. 3123.)

## Historical Note

References in Text. This chapter, referred to in subsecs. (a) and (b)(1), in the original read "this title", meaning Title I (section 101 et seq.) of Pub.L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42,

The Public Health and Welfare. For complete classifications of Title I to the Code, see Tables volume.

Legislative History. For legislative history and purpose of Pub.L. 95-617, see 1978 U.S. Code Cong. and Adm. News, p. 7659.

## Cross References

Reports by state regulatory authority and nonregulated electric utility on standards established under this section, see section 2626 of this title.

Separate metering for new buildings, see section 2625 of this title.

State law references treated as federal law references with respect to nonregulated electric utility and Tennessee Valley Authority, see section 2627 of this title.

Voluntary guidelines for standards established under this section prescribed by Secretary, see section 2641 of this title.

## Notes of Decisions

## 1. Advertising costs

Rules of Public Utilities Commission precluding all electric and gas utilities from including certain advertising and other costs in operating expenses were not inconsistent with requirements of this chapter by applying standards of subsec. (b) (5) of this section to small

gas companies where Commission found that goals of this chapter to foster energy conservation and equitable rates to consumers would be furthered by applying said standards to all utilities. Appeal of Concord Natural Gas Corp., 1981, 433 A.2d 1291, 121 N.H. 685.

## § 2624. Lifeline rates

## (a) Lower rates

No provision of this chapter prohibits a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or a nonregulated electric utility from fixing, approving, or allowing to go into effect a rate for essential needs (as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be) of residential

as those rates which reflect actual cost of providing electric service to certain class and authorizing adoption of lifeline rates, lifeline rates, by definition, consist of rates which are lower than cost-of-service rate, not rates which are based on or equivalent to cost-of-service rates. Greater Cleveland Welfare Rights Organization, Inc. v. Public Utilities Com'n of Ohio, 1982, 442 N.E.2d 1288, 2 Ohio St.3d 62, 2 O.B.R. 619.

### 3. Lifeline rates—Generally

Decision of the Public Service Commission that general lifeline electric rate structure would give false price signals to consumers was supported by substantial evidence. Citizens Action Coalition of Indiana, Inc. v. Public Service Co. of Indiana, Ind.App. 4 Dist. 1983, 450 N.E.2d 98.

### 4. Assistance to low income customers

Public Service Commission did not err in finding only moderate correlation between income and electricity consumption, and in utilizing that finding in concluding that general lifeline electric rate was not effective and equitable means of providing assistance to needy residential electricity customers. Citizens Action Coalition of Indiana, Inc. v. Public Service Co. of Indiana, Ind.App. 4 Dist. 1983, 450 N.E.2d 98, 29 A.L.R. 4th 606.

Where Public Utilities Commission's rejection of lifeline rates for electric service was based on conclusion that lifeline rates would not fulfill proposed goals and would result in imposition of inequitable rates, Commission determined that lifeline rates would be inappropriate vehicle to aid low and fixed income customers, and thus it seemed apparent that rates would not have been adopted even in

absence of existing direct assistance program. Commission's parenthetical reference to availability of other assistance programs in area did not constitute error. Greater Cleveland Welfare Rights Organization, Inc. v. Public Utilities Com'n of Ohio, 1982, 442 N.E.2d 1288, 2 Ohio St.3d 62, 2 O.B.R. 619.

### 5. Evidentiary hearing requirement

State regulatory authority complies with this section relating to lifeline rates when it holds an evidentiary hearing to evaluate whether lifeline rates should be implemented. Greater Cleveland Welfare Rights Organization, Inc. v. Public Utilities Com'n of Ohio, 1982, 442 N.E.2d 1288, 2 Ohio St.3d 62, 2 O.B.R. 619.

A contested case hearing pursuant to R.L.H. 1955, Supp.1981, § 91-9, at which extensive evidence was presented, in which appellant consumer advocates fully participated, and in which detailed findings of fact and conclusions of law were entered, satisfied requirement of "evidentiary hearing" under subsec. (b) of this section providing for adoption of lifeline electric rates. Application of Hawaiian Elec. Co., Inc., Hawaii 1983, 669 P.2d 148.

### 6. Burden of proof

Consumer advocates who intervened in review of electric company rate increase seeking establishment by state Public Utilities Commission of lifeline rates under this section were parties initiating administrative proceeding investigating adoption of these rates and, as such, had burden of proof. Application of Hawaiian Elec. Co., Inc., Hawaii 1983, 669 P.2d 148.

## § 2625. Special rules for standards

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### (a) Cost of service

In undertaking the consideration and making the determination under section 2621 of this title with respect to the standard concerning cost of service established by section 2621(d) (1) of this title, the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated electric utility). Such methods shall to the maximum extent practicable—

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer demand, and energy components of cost. In

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prescribing such methods, such State regulatory authority or nonregulated electric utility shall take into account the extent to which total costs to an electric utility are likely to change if—

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) Time-of-day rates

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for time-of-day rates established by section 2621(d)(3) of this title, a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates.

(c) Load management techniques

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for load management techniques established by section 2621(d)(6) of this title, a load management technique shall be determined, by the State regulatory authority or nonregulated electric utility, to be cost-effective if—

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique.

(d) Master metering

Separate metering shall be determined appropriate for any new building for purposes of section 2623(b)(1) of this title if—

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(e) Automatic adjustment clauses

(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

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PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

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Public Meeting held February 20, 1981

Commissioners Present:

- Susan M. Shanaman, Chairman, concurring
- Michael Johnson, concurring in part and dissenting in part
- James H. Cawley, concurring in part and dissenting in part
- Linda C. Taliaferro, concurring in part and dissenting in part

Pennsylvania Public Utility Commission  
 Jones & Laughlin Steel Corporation  
 Crucible, Inc.  
 United States Steel Corporation  
 Wood-McGraw & Co. - (Commercial Complainants)  
 Joseph Horne Company - (Commercial Complainants)  
 Equitable Life Assurance Society of the U.S. -  
 (Commercial Complainants)  
 Equitable/Allianz Pennsylvania Enterprises -  
 (Commercial Complainants)  
 Oliver Realty, Inc. - (Commercial Complainants)  
 Duquesne University - (Commercial Complainants)-  
 Gimbels - (Commercial Complainants)  
 Maureen Andrechak, et al.  
 City of Pittsburgh  
 Consumer Advocate  
 United Steelworkers Building Fund -  
 (Commercial Complainants)  
 Armco, Inc.  
 Kaufmann's - (Commercial Complainants)  
 Hospital Council of Western Pennsylvania  
 General Motors  
 v.  
 Duquesne Light Company

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- R-80011069C011
- R-80011069C012
- R-80011069C013
- R-80011069C014
- R-80011069C015
- R-80011069C016
- R-80011069C017
- R-80011069C018

JACKETED

JUN 04 1998

Investigation Upon the Commission's Own  
Motion into the Extended Outages of the  
Beaver Valley I Generating Station.  
(Duquesne Light Company)

I-79070314

Petition of the Commission Trial Staff  
to modify the net energy clause of  
Duquesne Light Company.

P-79040173

Petition of City of Pittsburgh and  
Mayor Richard S. Caliguiri to modify  
the net energy clause of Duquesne  
Light Company.

P-79040173

R-1  
C-00981142  
5-12-98  
PIAS  
BAS

The exceptions of PAJE and the Consumer Advocate are denied.

2. PURPA

The Public Utility Regulation Policy Act of 1978 (PURPA), 16 U.S.C., §2601, et seq., requires state regulatory ratemaking authorities to consider and make a determination concerning whether or not certain rate standards established by the Act are appropriate to be implemented in the state (16 U.S.C. §2621). The stated purposes of that Act are as follows:

~~(1) conservation of energy supplied by electric utilities;~~

(2) the optimization of the efficiency and use of facilities and resources by electric utilities;

(3) equitable rates to electric consumers (PURPA §101)

Congress specifically stated that nothing prohibits a regulatory body from making any determination that it is not appropriate to implement any of the delineated standards (16 U.S.C. §2621(a)). The only requirements are that a determination be arrived at after public notice and hearing; that the determination be in writing; on record evidence; and, if the Commission declines to implement a standard, the reasons for that decision be in writing and available to the public. Section 2621(d) establishes the following standards:

(1) Cost of service. - Rate charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 2625(a) of this title.

USS argues that lifeline rates result in discrimination and are an inefficient and inequitable way to aid residential customers. USS also contends that they would retard conservation efforts in view of the improper price signals which would be received by the affected customers. Further, that the lifeline rate concept is being investigated by the Pennsylvania Legislature and such a broad economic and social issue should not be considered within the confines of a rate proceeding. USS recommends that lifeline rates be rejected for Duquesne (USS Main Brief, p. 17).

The main contention of the Consumer Advocate regarding low usage residential customers has been fully discussed above under the ~~topic of allocation of revenues. To the extent that the lifeline rate~~ standard implies service below cost the standard is not adopted.

h. Remaining PURPA Standards

The Administrative Law Judge recommended that Duquesne be found in compliance with the remaining standards of: (1) information to customers; (2) the automatic adjustment clause; (3) termination of service; (4) advertising expenses; and, (5) master metering. The Consumer Advocate excepted as to information to customers and automatic adjustment clause.

We find Duquesne in compliance with these standards and the exceptions of the Consumer Advocate are denied.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PENNSYLVANIA PUBLIC UTILITY : Docket Number  
COMMISSION : R-80011069  
v. :  
DUQUESNE LIGHT COMPANY :

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Re: Investigation Upon the : I-79070314  
Commission's Own Motion into the : P-79040173  
Extended Outages of the Beaver : P-79040174  
Valley I Generating Station :

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Re: Investigation Upon the :  
Commission's Own Motion into the : I-79070316  
Matter of Conservation Incentives, :  
Including Demand Metering for :  
Duquesne Light Company :

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RECOMMENDED DECISION  
OF THE  
ADMINISTRATIVE LAW JUDGE  
(Subject to Commission Approval)

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DATE: JANUARY 12, 1981

HARRY G. BANZHOFF  
ADMINISTRATIVE LAW JUDGE

*113- claimed  
69.8 - allowed  
62%*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility	:	Docket Number
Commission, et al.	:	R-80011069
	:	I-79070314
vs.	:	I-79070316
Duquesne Light Company	:	

RECOMMENDED DECISION

(Subject to Commission Approval)

I. HISTORY OF THE PROCEEDINGS

On April 28, 1980, Duquesne Light Company (Duquesne, Respondent, or Company) filed with the Commission Supplement No. 38 to its Tariff Electric-Pa. P.U.C. No. 14, together with the required supporting data, to become effective June 28, 1980. Supplement No. 38 was designed to produce a one-step increase of approximately 18% in additional annual base rate revenues, amounting to \$113,047,942, based upon the level of operations for the 12-months ended December 31, 1979.

On June 11, 1980, the Commission ordered Supplement No. 38 be made subject to investigation, and, by operation of law, the tariff supplement was suspended until January 28, 1981 (R-80011069). The Commission further ordered that the Administrative Law Judge develop a complete record and make specific recommendations concerning:

1. The National Energy Act, and in particular the Public Utility Regulatory Policies Act of 1978;

2. The issues arising out of the Commission's current investigations at I-79070314 and I-79070315 involving outages at Beaver Valley 1 and the CAPCO construction program which are relevant to the rates of Duquesne Light Company, and

3. The conclusions and issues raised in a management audit, at Docket No. D-78M00140, of Duquesne's operation of its Warwick coal mine.

In addition, the previously instituted conservation investigation at I-79070316 was subsequently consolidated with these rate proceedings.

A prehearing conference was held on the rate proceedings on June 26, 1980. Eighteen (18) formal complaints were filed. In addition, on June 26, 1980, the Pennsylvania Alliance for Jobs and Energy's (PAJE) petition to intervene in these rate proceedings was granted.

On August 28, 1980, the Commission, acting on a Request for Certification, sustained the Administrative Law Judge's ruling that the Governor's Energy Council be permitted to also intervene in these rate proceedings.

Twenty-eight (28) days of evidentiary hearings were held, during which a record of 4,221 pages was developed.

Duquesne presented its evidence through nineteen (19) witnesses, together with supporting exhibits. In addition, Duquesne submitted

Twenty-nine (29) statements of direct and supplemental testimony,

Thirty-three (33) exhibits associated with direct and supplemental testimony,

I agree with Duquesne that the CA's recommendation should be rejected since the costs involved in this proposal would far outweigh the correspondingly small amount of additional information which would be available to the average customer.

Automatic Adjustment Clause

I agree with Duquesne and the Staff that sufficient incentives for efficient use of resources already exist in the fuel clause. Therefore, any change from Duquesne's current automatic adjustment clause should be rejected.

Termination of Service and Advertising Expenses

Based upon the record, we find nothing unreasonable with respect to Duquesne's current service termination and advertising practices and expenses.

Master Metering

Staff witness Birge recommends that Master Metering be prohibited except where individual metering is impractical. Duquesne points out that its tariff rules 42 and 18 effectively eliminate Master Metering except where it can be shown that special circumstances exist (Duquesne Br. p. 207). Since none of the parties appear to dispute Duquesne's compliance with this standard, its adoption for Duquesne is recommended.

5. Master Metering

Trial Staff witness Birge recommends prohibition of Master Metering, except where individual metering is impractical. Duquesne's Tariff Rule 42 prohibits Master Metering for residential structures connected after January 1, 1981. In addition, Tariff Rule 18, with limited exceptions, requires that all electric energy shall be consumed by the customer to whom the Company furnishes such energy. Tariff Rule 18 effectively controls Master Metering in commercial office buildings, while retaining flexibility to permit Master Metering of commercial tenants who may have shifting office space or store space requirements.

Duquesne's current Tariff Rule 18 and 42 would appear to satisfy the recommendation of the Staff's witness.