

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MEM

Township of Springdale : Docket No.
: C-00967749
v. :
: :
: :
Duquesne Light Company and :
West Penn Power Company :

PROSECUTOR GENERAL'S OFFICE

97 JUN 15 AM 10:14

INTERIM ORDER TWO --
GRANTING MOTION TO OPEN THE RECORD AND
GRANTING MOTION FOR A LIMITED STAY OF THE PROCEEDINGS

Background

On February 28, 1996, the Township of Springdale (Township or Complainant), by counsel, filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (Duquesne, DLC, or Respondent) and West Penn Power Company (West Penn, WPPC, or Respondent). Among other things the complaint alleges that more than 200 residents of the Township, including the Township itself, while located in the certificated service territory of West Penn, are being served by Duquesne. The residents and the Township seek to have electric service provided by West Penn instead of Duquesne. The Township further alleges that Duquesne and West Penn are at a stalemate regarding the transfer of customers and facilities from Duquesne to West Penn. The alleged stalemate, according to the Township, results from Duquesne and West Penn being unable to agree regarding the purchase price West Penn should pay for Duquesne's facilities. The Township asks the Commission to resolve this matter.

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The responsive pleadings and cross pleadings of the Respondents reveal that West Penn Power Company was willing to pay Duquesne trended original cost minus depreciation for the involved facilities, while Duquesne insisted that the purchase price reflect Duquesne's stranded costs. West Penn maintained that the concept of "stranded costs" is inapplicable under the circumstances presented in the instant case.

At the prehearing conference held on July 25, 1996, it was determined that, given the "hard" opposed positions of Duquesne Light Company and West Penn Power Company, the Commission's Alternative Dispute Resolution (ADR) process was inappropriate to resolve the matters at issue. (Tr. 15-17; 52 Pa. Code §69.392)

Following the prehearing conference "Interim Order One -- Pertaining To Prehearing And Posthearing Matters" was issued, which among other things set schedules for discovery, litigation, and briefing. The evidentiary hearing was held on December 10 and 11, 1996, and main and reply briefs were filed by the parties.

On or about January 30, 1997, WPPC filed a motion to open the record, pursuant to 52 Pa. Code §5.431, for the admission into the record of the Commission's "REPORT AND RECOMMENDATION TO THE GOVERNOR AND GENERAL ASSEMBLY ON ELECTRIC COMPETITION (From the Investigation into Retail Competition at Docket No. I-940032)." This order will grant the motion, and the report will be admitted into the record as ALJ Exh. No. 1.

On April 7, 1997, Allegheny Power System, Inc., and DQE, Inc., public utility holding companies, issued a joint press

release announcing that "they have signed a definitive agreement to merge in a tax-free, stock-for-stock transaction creating a company" that will be named Allegheny Energy, Inc. West Penn Power Company is a subsidiary of Allegheny Power System, Inc., and Duquesne Light Company is a subsidiary of DQE, Inc. The press release also notes the following:

The merger is conditioned, among other things [sic], upon the approvals of each company's shareholders and the necessary approvals of various state and federal regulatory agencies, including the public utility commissions in Pennsylvania and Maryland; the Securities and Exchange Commission; the Federal Energy Regulatory Commission; and the Nuclear Regulatory Commission. The companies are hopeful that the required approvals can be obtained within 12 to 18 months.

In reaction to the proposed merger, counsel for the Township of Springdale, on or about April 15, 1997, filed a motion for "stay of the Proceedings until this merger is concluded." Counsel correctly notes that if the proposed merger is consummated, the issue in the subject proceeding becomes moot. Counsel for WPPC and DLC indicated, by letters respectively dated April 28 and 30, 1997, that they had no objection to the Township's motion for a stay of the proceedings.

The Commission would not appear to have an interest in taking a position in this matter that is contrary to the consensus position of the parties, that is, a stay is not contrary to the public interest. Therefore, the motion for a stay of the proceedings will be granted, subject to the conditions (1) that the stay will be for a twelve month period and (2) that counsel for

Duquesne Light Company and for West Penn Power Company provide the presiding officer with quarterly reports regarding the status of the proposed merger and regarding any objection to the stay that might arise. The quarterly reports shall be due and served on the presiding officer and filed with the Commission's Prothonotary on or before August 29, 1997; November 28, 1997; February 27, 1998; and May 29, 1998.

ORDER

THEREFORE,

IT IS ORDERED, as follows:

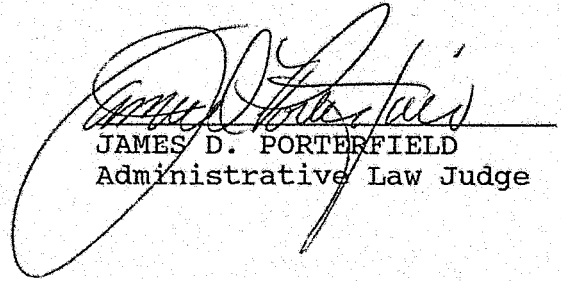
1. That the motion to open the record, pursuant to 52 Pa. Code §5.431, for the admission into the record of the Commission's "REPORT AND RECOMMENDATION TO THE GOVERNOR AND GENERAL ASSEMBLY ON ELECTRIC COMPETITION (From the Investigation into Retail Competition at Docket No. I-940032)" is granted, and the document is identified and admitted into the record as ALJ Exh. No. 1.

2. That the formal complaint proceeding captioned Township of Springdale v. Duquesne Light Company and West Penn Power Company, at Docket No. C-00967749, is stayed and the record is to remain open for a period of twelve months from the date of this order.

3. That counsel for Duquesne Light Company and counsel for West Penn Power Company shall serve on the presiding officer and shall file with the Commission's Prothonotary, on or before

August 29, 1997; November 28, 1997; February 27, 1998; and May 29, 1998, reports regarding the status of the proposed merger of Allegheny Power System, Inc., and DQE, Inc., and regarding any objection to the stay that might arise.

Date: June 2, 1997



JAMES D. PORTERFIELD
Administrative Law Judge

ORIGINAL



Allegheny Power

DJH

LEGAL SERVICES

005996

27 SEP -2 11:18:04

800 Cabin Hill Drive
Greensburg, PA 15601-1689
Phone: (412) 837-3000
FAX: (412) 838-6177

Writer's Direct Dial No. (412) 838-6210

E-mail: jmunsch@alleghenypower.com

August 28, 1997

Prothonotary
Pennsylvania Public Utility Commission
North Office Building, Room B20
Harrisburg, PA 17105-3265

**Re: Township of Springdale v. Duquesne Light Company
and West Penn Power Company; Docket No. C-00967749**

Dear Prothonotary:

The most recent Order of Administrative Law Judge James Porterfield, dated June 2, 1997, in the above-captioned proceeding directed Allegheny Power and Duquesne Light to file a status report of the merger proceedings of the two companies.

The regulatory approvals necessary or conducive for merger of the companies, and the status thereof, are as follows:

- 1) Regulatory Agency: Pennsylvania Public Utility Commission (PaPUC)

Required Filings: Individual restructuring plans for Duquesne Light and Allegheny Power, as required by the Electricity Generation Customer Choice and Competition Act. A merger approval request has been filed.

Filing Status: Filed August 1, 1997

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2) Regulatory Agency: Securities and Exchange Commission (SEC)

Required Filings: Form S-4, a registration statement required by the Securities Act of 1933, and Form U-1, to demonstrate compliance with the Public Utility Holding Company Act (PUHCA) of 1935. Allegheny Power falls under jurisdiction of PUHCA.

Filing Status: Form S-4 was filed on May 2, 1997. The first amendment to the S-4 was filed on June 10. SEC approval was received June 25. We expect to file under PUHCA during third quarter 1997.

3) Regulatory Agency: Department of Justice (DOJ) and Federal Trade Commission (FTC)

Required Filing: Notification and Report, as required by the Hart-Scott-Rodino Antitrust Improvements Act and associated rules. DOJ and FTC will review the effect of the merger on market power.

Filing Status: We expect to file during fourth quarter 1997.

4) Regulatory Agency: Federal Energy Regulatory Commission (FERC)

Required Filing: Compliance with Section 203 of the Federal Power Act. FERC will review the effect of the merger on market power.

Filing Status: Filed August 1, 1997.

5) Regulatory Agency: Nuclear Regulatory Commission (NRC)

Required Filing: Request NRC consent to the indirect transfer of control to Allegheny Energy of interest in the Beaver Valley and Perry plants' operating licenses, as required by the Atomic Energy Act.

Filing Status: Filed August 1, 1997.

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6) Regulatory Agency: Maryland Public Service Commission (MD PSC)

Required Filing: Approval being requested under the Maryland Code related to issuance of Allegheny Power common stock to exchange for DQE shares.

Filing Status: Filed August 1, 1997.

7) Regulatory Agency: Public Service Commission of West Virginia (WV PSC)

Required Filing: Approval required under the "affiliated interest" statutes for changes to various cost-sharing agreements.

Filing Status: We expect to file during third quarter 1997.

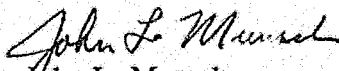
8) Regulatory Agency: Virginia State Corporation Commission (VA SCC)

Required Filing: Approval required under the "affiliated interest" statutes for changes to various cost-sharing agreements.

Filing Status: We expect to file during third quarter 1997.

Counsel for Duquesne Light Company, Mr. Richard S. Herskovitz, has authorized me to state that he concurs in this status report. This concludes the status report.

Very truly yours,


John L. Munsch
Attorney

cc: Certificate of Service

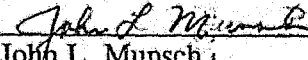
CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August 1997, a copy of the foregoing was served via first-class mail, postage prepaid upon the following:

Administrative Law Judge James D. Porterfield
Pennsylvania Public Utility Commission
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Steven Yakopek, Jr., Esquire
1706 Fifth Avenue
Arnold, PA 15068

Richard S. Herskovitz, Esquire
Duquesne Light Company
411 Seventh Avenue, 16-006
Pittsburgh, PA 15219



John L. Munsch
Attorney for
WEST PENN POWER COMPANY
800 Cabin Hill Drive
Greensburg, PA 15601
(412) 838-6210

ORIGINAL



Allegheny Power

LEGAL SERVICES

020790

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800 Cabin Hill Drive
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RECEIVED
PROTHONOTARY'S OFFICE

Writer's Direct Dial No.
mail: jmundsch@alleghenypower.com

November 26, 1997

DOCUMENT FOLDER

Prothonotary
Pennsylvania Public Utility Commission
North Office Building, Room B20
Harrisburg, PA 17105-3265

**Re: Township of Springdale v. Duquesne Light Company
and West Penn Power Company; Docket No. C-00967749**

Dear Prothonotary:

The Order of Administrative Law Judge James Porterfield, dated June 2, 1997, in the above-captioned proceeding directed Allegheny Power and Duquesne Light on or about November 28, 1997 to file a status report of the merger proceedings of the two companies.

The regulatory approvals necessary or conducive for merger of the companies, and the status thereof, are as follows:

- 1) Regulatory Agency: Pennsylvania Public Utility Commission (PaPUC)

Required Filings: Individual restructuring plans for Duquesne Light and Allegheny Power, as required by the Electricity Generation Customer Choice and Competition Act. A merger approval request has been filed.

Filing Status: Filed August 1, 1997

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2) Regulatory Agency: Securities and Exchange Commission (SEC)

Required Filings: Form S-4, a registration statement required by the Securities Act of 1933, and Form U-1, to demonstrate compliance with the Public Utility Holding Company Act (PUHCA) of 1935. Allegheny Power falls under jurisdiction of PUHCA.

Filing Status: Form S-4 was filed on May 2, 1997. The first amendment to the S-4 was filed on June 10. SEC approval was received June 25. We expect to file under PUHCA during November of 1997.

3) Regulatory Agency: Department of Justice (DOJ) and Federal Trade Commission (FTC)

Required Filing: Notification and Report, as required by the Hart-Scott-Rodino Antitrust Improvements Act and associated rules. DOJ and FTC will review the effect of the merger on market power.

Filing Status: We expect to file during fourth quarter 1997.

4) Regulatory Agency: Federal Energy Regulatory Commission (FERC)

Required Filing: Compliance with Section 203 of the Federal Power Act. FERC will review the effect of the merger on market power.

Filing Status: Filed August 1, 1997.

5) Regulatory Agency: Nuclear Regulatory Commission (NRC)

Required Filing: Request NRC consent to the indirect transfer of control to Allegheny Energy of interest in the Beaver Valley and Perry plants' operating licenses, as required by the Atomic Energy Act.

Filing Status: Filed August 1, 1997.

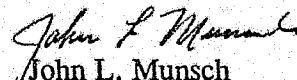
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- 6) Regulatory Agency: Maryland Public Service Commission (MD PSC)
- Required Filing:** Approval being requested under the Maryland Code related to issuance of Allegheny Power common stock to exchange for DQE shares.
- Filing Status:** Filed August 1, 1997.
- 7) Regulatory Agency: Public Service Commission of West Virginia (WV PSC)
- Required Filing:** Approval required under the "affiliated interest" statutes for changes to various cost-sharing agreements.
- Filing Status:** We expect to file in early 1998.
- 8) Regulatory Agency: Virginia State Corporation Commission (VA SCC)
- Required Filing:** Approval required under the "affiliated interest" statutes for changes to various cost-sharing agreements.
- Filing Status:** We expect to file in early 1998.

Counsel for Duquesne Light Company, Richard S. Herskovitz, Esquire, has authorized me to state that he concurs in this status report.

Very truly yours,


John L. Munsch
Attorney

cc: Certificate of Service

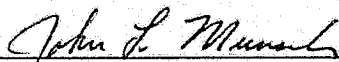
CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of November 1997, a copy of the foregoing was served via first-class mail, postage prepaid upon the following:

Administrative Law Judge James D. Porterfield
Pennsylvania Public Utility Commission
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Steven Yakopek, Jr., Esquire
1706 Fifth Avenue
Arnold, PA 15068

Richard S. Herskovitz, Esquire
Duquesne Light Company
411 Seventh Avenue, 16-006
Pittsburgh, PA 15219



John L. Munsch
Attorney for
WEST PENN POWER COMPANY
800 Cabin Hill Drive
Greensburg, PA 15601
(412) 838-6210

ORIGINAL



Allegheny Power

800 Cabin Hill Drive
Greensburg, PA. 15601-1689
(724) 837-3000

May 19, 1998

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James J. McNulty
Secretary
PA Public Utility Commission
P O Box 3265
Harrisburg PA 17105-3265

Dear Mr. McNulty:

I am writing to inquire about the status of the following formal complaints:

Township of Springdale v. Duquesne Light Company and West Penn Power Company, Docket Number C-00967749

According to company records, the last event was an in-person Prehearing Conference on July 25, 1996. We have received neither an Initial Decision, nor any other correspondence from the Commission.

**Richard A. Simons v. West Penn Power Company
Docket Number C-00957154**

According to company records, the last correspondence received was an Initial Decision from ALJ Michael A. Nemeec, dated April 24, 1996. We have received neither a Final Order, nor any other correspondence from the Commission.

In an effort to bring these cases to a conclusion, I have tried to contact you and have repeatedly left voicemail messages for you, but have not received a response. Would you please investigate and notify me of the status of these cases with the Commission. If they have been closed, please provide me with a copy of the Final Orders.

Thank you for your attention to this matter. If you have any questions, please contact me at (724) 838-6327.

Sincerely,

Tammy J. Taylor
Specialist

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COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

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May 27, 1998

In Re: C-00967749

(See letter dated 07/29/96)

Township of Springdale v. Duquesne Light Company and West Penn
Power Company

Complainant claims residents currently serviced by Duquesne Light Company are requesting service from West Penn Power Company. Duquesne Light Company and West Penn Power Company are statemated in the transfer of electric service in the area over a dispute as to how to calculate the purchase price of the distribution facilities of both electric companies certified service area of Springdale Township.

Telephone PostHearing Notice

This is to inform you that a telephone posthearing conference on the above-captioned case will be held as follows:

Type: Initial
Date: Friday, June 12, 1998
Time: 10:00 a.m.
Presiding: Administrative Law Judge James D. Porterfield
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550

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MAY 29 1998

SS

If you have not provided a current telephone number where you can be reached for participation in the hearing OR YOUR AREA CODE HAS CHANGED, then you must contact the presiding officer at least 7 days before the actual hearing and provide the necessary information.

At the above date and time, the Presiding Officer will contact the parties as follows:

Stephen Yakopec, Jr., Esquire	(724) 339-3377
Richard S. Herskovitz, Esquire	(412) 393-4146
John L. Munsch, Esquire	(724) 838-6210

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call Norma Lewis at the Public Utility Commission:

- Scheduling Office: 717-787-1399
- AT&T Relay Service number for persons who are deaf or hearing impaired: 1-800-654-5988.

pc: Judge Porterfield
Norma Lewis
Judy E. Weaver, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

APPEARANCE SHEET

ALJ HEARING REPORT

Docket No. C-00967749

Case Name Township of Springdale
v.
Duquesne Light Company

Location Pittsburgh

Date June 12, 1998

ALJ Porterfield

CHECK THOSE BLOCKS WHICH APPLY:

~~Prehearing-held~~ ^{post-hearing conference} YES NO

Hearing held YES NO

Testimony taken YES NO

Transcript due YES NO

Hearing concluded YES NO

Further hearing needed YES NO

Estimated add'l days _____

Reporting Firm _____

RECORD CLOSED YES NO

DATE 08/29/98

Briefs to be Filed ^{supplement} YES NO

DATE _____

BENCH DECISION YES NO

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JUN 19 1998

REMARKS: DLC is supplementing brief - WPPC will reply 30/30 days

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
PLEASE PRINT CLEARLY
INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS	APPEARING FOR
<u>Stephen Yakovlev, Esq.</u> 724 Telephone No. <u>339-3377</u>	<u>1706 Fifth Ave</u> City <u>Arnold</u> State <u>PA</u> Zip <u>15068</u>	<u>Twp of Springdale</u>
<u>Richard S. Hershowitz, Esq.</u> 412 Telephone No. <u>393-6125</u>	<u>411 Seventh St. 16-006</u> City <u>Pgh</u> State <u>PA</u> Zip <u>15230-1930</u>	<u>SECRETARY'S BUREAU</u>
<u>John L. Munch, Esq.</u> 724 Telephone No. <u>838-6210</u>	<u>800 Cabin Hill Dr</u> City <u>Greensburg</u> State <u>PA</u> Zip <u>15601-1685</u>	<u>SECRETARY'S BUREAU</u>

CHECK THIS BOX IF ADDITIONAL PARTIES OR COUNSEL OF RECORD APPEAR ON BACK.

Beth Spin
REPORTER



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office of Administrative Law Judge
1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222
(412) 565-3550
(412) 565-5692 FAX

IN REPLY PLEASE
REFER TO OUR FILE

November 23, 1999

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Re: *Township of Springdale v. Duquesne Light Company and West Penn
Power Company*
Docket No. C-00967749

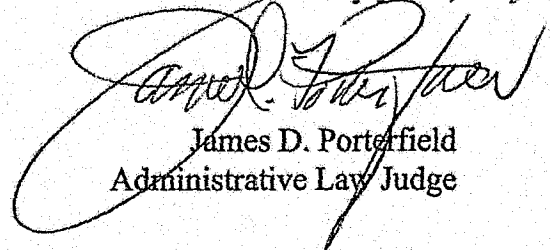
Dear Counsel:

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Interim Order Two in the above-captioned proceeding was issued on June 2, 1997, and, among other things, stayed the proceeding. Please advise me, in writing, at your earliest opportunity, regarding your positions on the continuing stay of the proceeding. I understand that Mr. Yakopec, as solicitor for Springdale Township, may require more time than the others to advise me of the Township's position, so I ask him, if there will be any inordinate delay in responding to this letter, to advise me of an approximate time when he will be able to offer the Township's position.

Thank you for your attention to this matter.

Sincerely yours,



James D. Porterfield
Administrative Law Judge

Cc: Secretary's Bureau

ORIGINAL



Allegheny Power

LEGAL SERVICES

135301

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800 Cabin Hill Drive
Greensburg, PA 15601-1689
Phone: (724) 837-3000
FAX: (724) 838-6177

RECEIVED
ATTORNEY'S OFFICE

Writer's Direct Dial No. (412) 838-6210
E-mail: jmunsch@alleghenypower.com

March 2, 1998

Prothonotary
Pennsylvania Public Utility Commission
North Office Building, Room B20
Harrisburg, PA 17105-3265

Re: Township of Springdale v. Duquesne Light Company
and West Penn Power Company; Docket No. C-00967749

Dear Prothonotary:

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The regulatory approvals necessary or conducive for merger of the companies, and the status thereof, are as follows:

- 1) Regulatory Agency: Pennsylvania Public Utility Commission (PaPUC)

Required Filings: Individual restructuring plans for Duquesne Light and Allegheny Power, as required by the Electricity Generation Customer Choice and Competition Act. A merger approval request has been filed.

Filing Status: Filed August 1, 1997; hearings held December 1997 and January 1998; Briefs and Reply Briefs filed.

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2) Regulatory Agency: Securities and Exchange Commission (SEC)

Required Filings: Form S-4, a registration statement required by the Securities Act of 1933, and Form U-1, to demonstrate compliance with the Public Utility Holding Company Act (PUHCA) of 1935. Allegheny Power falls under jurisdiction of PUHCA.

Filing Status: Form S-4 was filed on May 2, 1997. The first amendment to the S-4 was filed on June 10. SEC approval was received June 25. Form U-1 was filed in November of 1997.

3) Regulatory Agency: Department of Justice (DOJ) and Federal Trade Commission (FTC)

Required Filing: Notification and Report, as required by the Hart-Scott-Rodino Antitrust Improvements Act and associated rules. DOJ and FTC will review the effect of the merger on market power.

Filing Status: The Hart-Scott-Rodino filing was made in January 1998.

4) Regulatory Agency: Federal Energy Regulatory Commission (FERC)

Required Filing: Compliance with Section 203 of the Federal Power Act. FERC will review the effect of the merger on market power.

Filing Status: Filed August 1, 1997.

5) Regulatory Agency: Nuclear Regulatory Commission (NRC)


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Filing Status: We expect to file in 1998.
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Required Filing: Approval required under the "affiliated interest" statutes for changes to various cost-sharing agreements.
Filing Status: We expect to file in 1998.

Counsel for Duquesne Light Company, Richard S. Herskovitz, Esquire, has authorized me to state that he concurs in this status report.

Very truly yours,


John L. Munsch
Attorney

cc: Certificate of Service

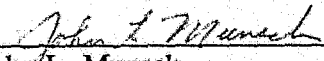
CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March 1998, a copy of the foregoing was served via first-class mail, postage prepaid upon the following:

Administrative Law Judge James D. Porterfield
Pennsylvania Public Utility Commission
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Steven Yakopek, Jr., Esquire
1706 Fifth Avenue
Arnold, PA 15068

Richard S. Herskovitz, Esquire
Duquesne Light Company
411 Seventh Avenue, 16-006
Pittsburgh, PA 15219



John L. Munsch
Attorney for
WEST PENN POWER COMPANY
800 Cabin Hill Drive
Greensburg, PA 15601
(412) 838-6210