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August 7, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan
Docket No. M-2009-2093217

Dear Secretary McNulty:

Enclosed for filing are the Comments of the Office of Consumer Advocate, in the above referenced proceeding. On this date, the OCA is also serving the written testimony of its witness David G. Hill, Ph.D. on Administrative Law Judge Fred R. Nene and the parties to the evidentiary portion of this proceeding. Hearings are scheduled for August 19 and 20, 2009 where this testimony will be moved into the record. The OCA requests that these Comments be read and considered in conjunction with the testimony of Mr. Hill.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

David T. Evrard

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Assistant Consumer Advocate
PA Attorney I.D. # 33870

Enclosures
cc: Honorable Fred R. Nene
Office of Special Assistants

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CERTIFICATE OF SERVICE

Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan	: : : :	Docket No. M-2009-2093217

I hereby certify that I have this day served a true copy of the foregoing document, the Comments of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of August 2009.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan	:	Docket No. M-2009-2093217

COMMENTS
OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: August 7, 2009

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I. INTRODUCTION

The OCA is filing these Comments in accordance with the Notice in the Pennsylvania Bulletin published July 18, 2009. These Comments are in response to the Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan (EE&C/DR or Plan). On this date, the OCA is also separately serving the expert testimony of David G. Hill of the Vermont Energy Investment Corporation (VEIC) addressing the Company's EE&C/DR Plan.[1] Mr. Hill's testimony will be served on Administrative Law Judge Fred R. Nene and the parties to the evidentiary portion of this proceeding pursuant to the litigation schedule adopted in this case and will then be moved into the record at the evidentiary hearings scheduled for August 19 and 20, 2009.

A. Background

Act 129 (Act) was signed into law by Governor Rendell on October 15, 2008 and became effective on November 14, 2008. The Act provides for Energy Efficiency and Conservation Programs; Amending the Duties of Electric Distribution Companies' (EDCs) Obligation to Serve; Providing for Smart Meter Technology and Time of Use Rates; Providing Additional Market Power Remediation for Market Misconduct; Providing Additional Alternative Energy Sources; and Providing a Carbon Dioxide Sequestration Network. The Act makes a number of significant amendments to the Pennsylvania Public Utility Code, many of which will have a direct impact on the rates and service of customers of Pennsylvania's EDCs.

[1] Mr. Hill is employed as a Managing Consultant with the Vermont Energy Investment Corporation (VEIC) and is the manager of the firm's renewable energy consulting division. Mr. Hill holds a Masters Degree in Appropriate Technology and International Development and a Ph.D. in Energy Management and Policy Planning, both from the University of Pennsylvania. Mr. Hill has more than seventeen years of experience with planning, evaluation and implementation of energy efficiency and renewable energy programs. Mr. Hill has worked for dozens of utility and non-utility clients nationally and abroad.

Of particular relevance here, Act 129 establishes an obligation for each EDC with 100,000 or more customers to achieve specified reductions in energy usage and peak demand. By May 31, 2011, each EDC must reduce the energy usage of its customers by 1% and by May 31, 2013, each EDC must reduce the energy usage of its retail customers by 3%. These energy consumption reductions are based on the forecasted energy usage for the June 1, 2009 to May 31, 2010 base period. Also, by May 31, 2013, an EDC must reduce the weather-normalized demand of its retail customers by a minimum of 4.5% in the 100 hours of highest demand. The Act provides for specific fines in the event an EDC fails to achieve the standards for reduction contained in the Act.

Act 129 states that the Commission's energy efficiency and conservation program must include the following: (1) procedures for the approval of plans submitted by EDCs pursuant to Act 129; (2) an evaluation process "to monitor and verify data collection, quality assurance and results" of each EDC EE&C plan; (3) a cost-benefit analysis of each EDC EE&C plan in accordance with a total resource cost test approved by the Commission; (4) analysis of how the Commission's program and each EDC EE&C plan will achieve or exceed Act 129's consumption reduction requirements; (5) standards to ensure that each EDC EE&C plan includes a variety of EE&C measures that are provided equitably to all customer classes; (6) procedures to make recommendations as to additional measures that will enable EDCs to improve their EE&C plans and exceed the Act's required reductions in consumption; (7) procedures to require EDCs to competitively bid all contracts with conservation service providers (CSPs); (8) procedures to review, and modify if the Commission deems necessary, all proposed contracts with CSPs prior to execution; (9) procedures to ensure compliance with the Act's requirements for reduction in consumption; (10) a requirement for the participation of CSPs in the implementation of all or part of their respective EDCs' EE&C plans; and (11) cost recovery to ensure that the measures approved are financed by the same customer class that will receive the direct energy and conservation benefits. See 66 Pa.C.S. § 2806.1(a).

In the latter months of 2008, the Commission commenced a stakeholder process and invited written comments from the EDCs and other interested parties to develop the energy efficiency and conservation program required by Act 129. The Office of Consumer Advocate (OCA) participated by submitting Comments to the Commission on November 3, 2008, and again on December 8, 2008. The OCA also participated in a stakeholder meeting. Pursuant to the requirements of Act 129, on January 16, 2009, the Commission entered its Implementation Order at Docket No. M-2008-2069887 (Implementation Order). [2]

In the Implementation Order, the Commission called for the publication of the Plans in the *Pennsylvania Bulletin* and allowed for the filing of Comments on the Plan. The Commission also directed evidentiary and public input hearings on each EE&C Plan so that recommendations for improving the plans could be submitted by the statutory advocates and the public. See Implementation Order at 8. Further, the Commission established a specific litigation schedule to meet Act 129's requirement that it rule on each EDC's EE&C plan within 120 days of submission, and provisions were established for the re-submission of rejected EE&C plans.[3] Id. See also 66 Pa.C.S. § 2806.1(e)(2). In its Implementation Order, the Commission also encouraged each EDC to conduct a collaborative process during the development of its Plan to

[2] The Implementation Order was adopted at Public Meeting on January 15, 2009.

[3] Based on the established consideration period of 120 days, the schedule was broken down as follows: (1) each EE&C plan is assigned to an Administrative Law Judge (ALJ), who will establish discovery, public input hearing schedule and evidentiary hearing schedules, but all hearings must be completed by September 3, 2009; (2) all briefs are due by September 14, 2009; (3) each EDCs' reply brief and/or revised plan is due by September 24, 2009; and (4) the Commission will issue its decision regarding each EDC plan by October 29, 2009. See Implementation Order at 12. The Commission extended the opportunity to file reply briefs to all parties by Order entered June 2, 2009, at Docket Number M-2008-2069887.

receive input from various stakeholders. As discussed more below, the OCA participated in the Duquesne Light Company (Duquesne or Company) stakeholder process. Also pursuant to this Order, each EDC was required to submit its consumption forecast with the Commission by February 9, 2009. The Commission approved the forecasts submitted by the EDCs in its order entered March 30, 2009.

Pursuant to the Implementation Order, on May 7, 2009, the Commission issued a Secretarial Letter, which provided EDCs with an EE&C plan template to be used in preparing and filing their EE&C plans with the Commission. Thereafter, on May 28, 2009, the Commission adopted Standards for the Participation of Demand Side Management Resources in an updated Technical Reference Manual (TRM) at Docket No. M-00051865. The manual is to be used by EDCs as a guide in evaluating the savings impacts of the different aspects of their plans.

Act 129 requires each EDC to demonstrate, *inter alia*, that its EE&C plan is cost-effective using the Total Resource Cost (TRC) test[4] and that its plan provides a diverse cross section of alternatives for customers of all rate classes. See 66 Pa.C.S. § 2806.1(b)(1)(i)(I). After inviting and receiving comments from interested parties on the matter, including the OCA, the Commission adopted a TRC test at Docket No. M-2009-2108601 (TRC Test) on June 18, 2009.

The OCA provides the following Comments on Duquesne's Plan in accordance with the Commission's Implementation Order.

[4] A TRC test is "a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures." 66 Pa.C.S. § 2806.1(m).

B. <u>The Stakeholder Process</u>

As described in the testimony of Duquesne witness Michele Sandoe, the Company engaged in a stakeholder process both to advise stakeholders of Act 129's requirements and to seek their input regarding program development. Duquesne St. 1 at 10-12. Duquesne conducted a kickoff meeting with more than 50 stakeholders on April 3, 2009. Follow-up meetings with subgroups representing residential, commercial and industrial customers occurred on April 21, 22 and 23. There was also a subgroup meeting concerning demand response. As a result of the stakeholder input it received, Duquesne added or made changes to the preliminary designs of certain of its programs and made changes to its mechanism for cost recovery. The stakeholder process also facilitated the development of partnership opportunities between Duquesne and certain stakeholders. The OCA participated in the April 3 kickoff meeting, the April 23 residential subgroup meeting and the subgroup meeting on demand response.

On the whole, the OCA found the Duquesne stakeholder process to be beneficial in soliciting important stakeholder feedback in developing its EE&C plan. To the extent Duquesne has modified its plan on the basis of such feedback, the OCA anticipates that fewer issues will arise during the evidentiary hearing phase of this proceeding. Further, the partnership opportunities that developed as a result of the stakeholder process should improve prospects for the success of the plan.

In her testimony, Ms. Sandoe expresses Duquesne's intent to continue the stakeholder process as the Plan is implemented. Duquesne St. 1 at 12. As discussed more fully below, the OCA supports the continuation of the stakeholder process, with regularly scheduled meetings, reports and collaboration during Plan implementation. In the OCA's view, the Plan filing is only the first step in achieving the goals of Act 129. There is much work to be done once a final Plan is approved and an active stakeholder process will be a valuable tool to assist in the continued improvement of the Plan.

C. Summary of the Duquesne Plan

On June 30, 2009 Duquesne filed with the Commission its Energy Efficiency and Conservation and Demand Side Response (EE&C/DR) Plan along with its Petition for Approval of the Plan (Petition). The proposed EE&C/DR Plan consists of 16 voluntary programs for customers and describes an extensive portfolio of energy-efficiency, conservation, and peak load reduction measures, programs, education and communication efforts. These 16 programs (13 EE&C programs and 3 DR programs) are designed to meet the goals established by Sections 2806.1 and 2806.2 of Act 129. 66 Pa.C.S. §§ 2806.1 and 2806.2.

For residential customers, Duquesne proposes to offer the following programs: 1) Energy Efficiency Rebate Program, 2) School Energy Pledge Program, 3) Refrigerator Recycling Program, and 4) Direct Load Control Program for Air Conditioners and Electric Water Heaters, a demand response program. Additionally, for low-income customers, Duquesne will offer Low-Income Energy Efficiency Program. In its Petition, Duquesne expresses a desire to launch several of the programs early, including the School Energy Pledge Program, which it would like to implement with the beginning of the 2009-10 school year in September.

Duquesne's portfolio of programs is designed to provide customer benefits while also meeting the energy saving and peak load reduction goals set forth in the Act within the designated expenditure cap of two percent (2%) of 2006 annual revenues ($19.5 million) for each year of the four-year plan, which equates to a total of approximately $78.2 million for the entire plan period. Specifically, Duquesne's Plan includes measures and programs to achieve the

Company's calculated electricity consumption and peak load reduction targets of: a) 1% energy savings by 2011, which is 140,885 MWh; b) 3% energy savings by 2013, which is 422,565 MWh; and c) peak load reduction of 4.5% by 2013, which is 113 MW. Duquesne St. 1 at 4.

As permitted by Act 129, the Company also proposes to implement an Energy Efficiency and Conservation and Demand Response Surcharge pursuant to Section 1307 of the Public Utility Code. 66 Pa.C.S. § 1307. Designed to recover all of its costs applicable to the Plan, Duquesne will apply the surcharge on a non-bypassable basis to charges for electricity supplied to customers who receive distribution service from the Company. The surcharge will be computed separately for Residential, Small and Medium Commercial, Small and Medium Industrial, Large Commercial and Large Industrial classes. Initially, the surcharge rates for each class are projected to be:

Customer Class	**¢/kwh**	**Fixed Charge $/Month**	**$/kw**
Residential	0.19		
Small & Medium Commercial	0.11		
Small & Medium Industrial	0.20		
Large Commercial		$257.00	$1.59
Large Industrial		$784.00	$0.45

Source: Duquesne Exh. WVP-9.

It appears that the surcharge will be included as part of the distribution rates and applied to the monthly bill of each customer receiving distribution service from the Company. With respect to Residential customers, the Company proposes to levelize its surcharge over a 42-month period and perform a one-time reconciliation for over and under-collections at the conclusion of that period. The surcharges for Large Commercial and Industrial customers will operate similarly. The surcharges for Small and Medium Commercial and Industrial customers, however, will be reconciled annually. While the proposed level of surcharges is based on the currently projected budgets for each customer class, the Company seeks the authority to move budgeted dollars within a customer class or between customer classes if it determines that the funds could be more effectively spent by such a move. Petition at 5. In such a case, Duquesne states that "where program fund shifting is necessary across customer class sectors, adjustments may be made to the surcharge rates, if a material over or under collection was projected to occur, and adjustments will be made to the reconciliations and balancing accounts to ensure no cross-sector cost subsidization occurs." Petition at 5.

D. Summary of the OCA Position

The OCA retained expert witnesses to assist in its review of each EDC's Final Plan. As noted above, the OCA is submitting the Direct Testimony of David G. Hill of VEIC. These Comments have been informed by the Testimony of the OCA's expert witness. That testimony will be presented in the evidentiary record of the proceeding that is being certified to the Commission. The following is a summary of the OCA's conclusions and recommendations as set forth in these Comments and the testimony of its expert witness:

Overall Plan Assessment and Compliance with the Requirements of the Act:

- The EE&C/DR Plan is reasonably designed to meet or exceed the requirements for energy efficiency and demand reduction set forth in Act 129 in the time period specified for compliance and within the budget limitations specified in the Act.

- The EE&C/DR Plan is designed to meet or exceed the requirements in Section 2806.1(b)(1)(i)(B) for savings within the government/non-profit sector.

- The EE&C/DR Plan is designed to meet the requirements in Section 2806.1(b)(1)(i)(G) for providing programs and savings for low income customers.

- The EE&C/DR Plan is designed to provide a variety of programs to all customer classes and provides the measures equitably to all customer classes as specified in Section 2806.1(a)(1)(5).

- The EE&C/DR Plan as a whole satisfies the Total Resource Cost Test as set forth by the Commission making the Plan a cost-effective means of achieving the requirements of the Act.

- The EE&C/DR Budget of $78.2 million, with proper program design and delivery, should provide significant net benefits and establish a basis for continued long-term development of Pennsylvania's energy efficiency resource.

- The EE&C/DR Plan proposed by Duquesne should be generally approved as a sound starting point for meeting the requirements of Act 129, subject to certain modifications recommended in these comments.

Program Design:

- Duquesne should consider working with other EDCs on measures where such coordination could achieve synergistic results. One example would be in the negotiation of "upstream" incentives to Compact Fluorescent Lightbulb (CFL) manufacturers and distributors.

- Duquesne should consider opportunities for collaboration with local natural gas utilities.

- Duquesne should consider incorporating replacement of residential furnace fans as a measure within its Residential Energy Efficiency Rebate Program (REEP).

- Duquesne should consider including a program targeted at new construction under its Commercial and Industrial Umbrella programs.

- Duquesne's programs for Commercial and Industrial customers should consider targeting such high-value market subsectors as grocery stores or data centers.

- Duquesne should scale back its stated goals (projected kwh savings) in the Commercial and Industrial sectors and dedicate its spending in these sectors to achieving the consumption reductions mandated by Act 129. By doing so, Duquesne will ensure a greater likelihood of success in meeting its energy reduction goals.

- Duquesne should inquire into certain apparent anomalies in the study data that underlie REEP.

Stakeholder Process And Plan Adjustments

- The stakeholder process should be further detailed by requiring meetings at least on a quarterly basis throughout the Plan period and providing for specific reports on implementation to the stakeholders as part of that process.

- A process for determining mid-course corrections and receiving approval of significant mid-course Plan modifications or cost recovery should be developed.

Cost Recovery

- The Company should eliminate its proposal to impose interest on over or undercollections of its cost recovery.

- The Company should be required to bid any qualifying energy efficiency and demand response measures into the PJM RPM auctions and credit customers with any benefits received.

- The costs of the statewide evaluator must be included in the 2% spending limitation

These issues are discussed below.

II. COMMENTS ON THE PLAN AND SPECIFIC PROGRAMS

A. Introduction

The OCA submits that Duquesne's overall proposed EE&C/DR Plan is reasonable. The Plan, as proposed, closely comports with the requirements of Act 129. The OCA's witness has identified some areas of possible improvement which are briefly described below.

B. Specific Program/Plan Design Issues and Recommendations

1. Coordination with Other EDCs

Mr. Hill's testimony recommends that Duquesne work with other EDCs, particularly in areas where such coordination could facilitate program optimization. Mr. Hill cites as a prime example, the negotiation of incentives with CFL manufacturers and distributors.

National retailers and manufacturers are often unwilling to negotiate incentives on local (service territory) basis. A statewide effort by all Pennsylvania EDCs is much more likely to reach sufficient critical mass to entice these large national entities to negotiate incentive deals. The OCA recommends that Duquesne consider such an initiative.

2. Collaboration with Natural Gas Utilities

Both electric and gas distribution companies can benefit from collaboration by being able to increase marketing and ensuring the appropriate installation of their respective program offerings. Duquesne could increase the effectiveness of its low income programs by partnering with natural gas programs to offer more comprehensive services. One fertile area of potential collaboration would be through offering energy auditing services and through having the natural gas programs deploy electric efficiency measures, such as CFLs, replacement refrigerators or replacement air conditioners when at the customer residence. The OCA recommends that Duquesne examine the opportunities for collaborating with its local gas distribution companies as it begins Plan implementation.

3. Residential Fan Furnaces

OCA witness Hill observes that the replacement of residential furnace fans is not included as a measure in Duquesne's REEP program. The 2009 American Council for an Energy Efficient Economy (ACEEE) study of energy efficiency potential in Pennsylvania identifies the savings associated with replacement of existing furnace fans with ones that meet or exceed the minimum Electric Conservation Measure standards as potentially providing 6% of the electric energy savings potential identified in the study for Pennsylvania. The OCA recommends that Duquesne consider incorporating replacement of furnace fans in the REEP program.

4. Commercial and Industrial New Construction Programs

In his testimony, OCA witness Hill observes that Duquesne's Commercial and Industrial programs do not include a program geared to new construction and renovation projects. Mr. Hill submits that such projects represent an opportunity to lock in long term and cost effective energy savings relative to retrofit or early replacement programs. By working with customers (and their design/construction professionals) during the initial stages of a construction project, energy efficiency program managers can achieve long term savings through the integration of efficiency measures and building design. If done correctly, integrating energy efficiency into buildings from the outset allows for reductions in the size of HVAC units and fewer lighting fixtures. Duquesne should consider incorporating a new construction program in its portfolio of Commercial and Industrial programs.

5. Targeting High Value Market Subsectors

Mr. Hill notes that Duquesne's portfolio of programs for Commercial and Industrial customers does not include a strategy to target what he terms "high-value market subsectors," such as grocery stores and data centers. According to Mr. Hill, a high-value subsector is one where there is a considerable amount of energy savings potential from technologies that are pervasive in the target market. Grocery stores and data centers are two markets that have this type of pervasive technology deployment. The OCA recommends that Duquesne explore the possibility of including several high-value target businesses in its Commercial and Industrial program portfolio as it initiates Plan implementation.

6. Scale-back of Projected KWH Savings in Commercial and Industrial Sectors

In his testimony, Mr. Hill expresses concern that Duquesne may not be able to attain its projected level of kilowatt-hour savings for its Commercial and Industrial programs. The projected level of savings substantially overcomplies with Act 129's requirements. While admirably ambitious, attempting to reach the projected level of savings may risk spreading resources too thin, resulting in program strategies and incentives that are ineffective. Consequently, Mr. Hill recommends that Duquesne dedicate its Commercial and Industrial program spending on achieving the level of reductions mandated by the Act. Focusing program spending on achieving the reduction goal increases the likelihood that the programs will be successful.

7. Residential Program Savings

OCA witness Hill raises concern about certain anomalies in Duquesne's REEP program. First, he questions the amount of savings from and the program emphasis on residential outdoor fixtures. The Plan identifies outdoor fixtures as providing 32% of the savings of the entire REEP program. By comparison, screw-in CFL measures in REEP account for only 3% of annual savings. Second, Mr. Hill questions whether the 4% of total residential energy savings expected to come from the provision of energy efficient torchiers is accurate, again given that CFL measures produce only 3% of annual savings. Third, Mr. Hill questions the applicability factor assigned to CFLs given that the applicability factor assigned to the most common CFL wattage (13-17 W) is 6% while the applicability factor assigned to outdoor fixtures is 60%. Duquesne should investigate these apparent anomalies in the study data supporting REEP.

C. Special Plan Requirements

1. Low Income Program Requirements

Section 2806.1(b)(1)(i)(G) establishes a requirement for specific energy efficiency measures for low income households. Section 2806.1(b)(1)(i)(G) reads in pertinent part:

> (G) The plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory.

66 Pa.C.S. §2806.1(b)(1)(i)(G). It is the OCA's view that the General Assembly sought to establish a set aside through this language to ensure that low income customers received the benefits that energy efficiency can deliver. This becomes even more pressing in light of the Commission's conclusion in its Implementation Order that all customers should be required to pay the costs associated with Act 129, including low income customers. Implementation Order at 37.

The language of the Act uses the terms "measures" within the section but also refers to "in proportion to usage." The OCA submits that the most effective way to implement this Section is to require each EDC to assure that a specific percentage of the overall savings to be achieved from the Plan are realized through programs and measures directed to the low income customer segment. This approach would parallel the set aside approach for the government/non-profit sector. See, Section 2806.1(b)(1)(i)(B).

In the stakeholder process, the OCA worked with Duquesne on implementing the requirement of Section 2806(b)(1)(i)(G) and in determining the percentage of low income customer usage as to the total system usage. Based on the OCA's understanding, the Company estimated its total low income usage by using Census data to first determine the number of low income customers in its service territory. It is important to note that the Company sought to determine the total number of its low income customers in its service territory, not just those low income customers participating in the Company's universal service programs. The OCA submits that the Act was intended to capture usage by all low income customers. The Company then determined the usage for its low income customer population by multiplying the number of low income households by the average residential usage. This provided the percentage of low income usage to total system usage, which was determined to be approximately 6.1%. EE&C/DR Plan § 9.1.3. The Company then endeavored to design programs in its Plan to achieve at least 6.1% of its energy consumption and peak load reductions from the low income sector. EE&C/DR Plan §9.1.3. Under the Plan, the Company will seek to achieve consumption reductions of 30,055 MWH by May 31, 2013 from the low income sector, which is 7.1% of the required reduction. EE&C/DR Plan, § 9.1.3, Figure 48. The OCA submits that the Company's methodology for determining the low income set aside requirement, and its Plan for meeting the requirement, is reasonable and in compliance with the Act. The OCA fully supports the Company's efforts in this regard.

2. <u>Government/Non-Profit/Schools</u>

Section 2806.1(b)(1)(i)(B) establishes a specific requirement for achieving reductions from the government/non-profit/school sector. The section provides:

> (B) A minimum of 10% of the required reductions in consumption under subsections (c) and (d) shall be obtained from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and nonprofit entities.

66 Pa.C.S. §2806.1(b)(1)(i)(B).

To meet the requirement of this section of the Act, Duquesne proposes a Public Agency Partnership Program (PAPP) under which Duquesne will enter into Memoranda of Understanding (MOUs) with local government agencies to work jointly to identify, fund and implement energy efficiency projects and measures. EE&C/DR Plan § 3.5. As with the low-income set-aside, Duquesne projects that the reductions achieved under PAPP will actually exceed the mandated 10% level. Specifically, the Company projects consumption reductions of 26,920 MWH (14,088 MWH mandated) by 2011 and 62,814 MWH (42,257 mandated) by 2013, and demand reduction within the sector of 20,187 KW (mandated 11,300). EE&C/DR Plan § 9.1.4, Figure 49.

Duquesne notes that it has patterned the PAPP on successful programs operating in other parts of the country. EE&C/DR Plan § 3.5. If Duquesne's program proves to be equally or nearly as successful, the OCA submits that the Company should readily satisfy the requirements of Section 2806.1(b)(1)(i)(B).

3. Equitable Distribution of Measures/Variety of Programs

The Act requires that the Plan include a variety of measures and that the measures be provided equitably to all customer classes. 66 Pa.C.S. §2806.1(a)(5). Duquesne's Plan contains 16 different programs distributed across all of its customer classes. The Company has provided at least one energy efficiency and one demand response program for each class in accordance with the Commission's Implementation Order, and in fact, offers multiple programs for each customer class. See, EE&C/DR Plan, Table 4.

While determining reasonableness or equity can be subjective, the OCA also reviewed the required Budget and Parity Analysis Summary found in Table 5 of Duquesne's EE&C/DR Plan and the following information to evaluate whether the portfolio proposed by the

Company achieved a reasonable and equitable balance in its portfolio. The OCA conducted this review keeping in mind the specific requirements of the Act for low income customers, government/non-profit sector and the need for the Plan to be cost-effective under the Total Resource Cost Test.

Comparison of % of Program Funding to % of Overall Company Revenues by Class

Customer Class	Current Revenues (Calendar 2008)	%of Current Revenues	Revenues – Base Period (2006)	% Base Period Revenues	% of Program Budget
Residential	$469,775,021	50.8%	$367,688,569	50.8%	32.9%
Commercial	$342,062,535	37.0%	$268,206,478	37.1%	47.7%
Industrial	$ 57,588,222	6.2%	$ 36,704,796	5.1%	19.4%
Public Street & Highway Lighting	$ 15,271,034	1.7%	$ 14,037,980	1.9%	N/A
Other Oper. Revenues	$ 39,399,588	4.3%	$ 36,661,628	5.1%	N/A
CompanyTotal	$924,096,370	100%	$723,299,451	100%	100%

Source: EE&C/DR Plan, § 3.1.1, Figure 3; Duquesne Light FERC Form No. 1, for years ended 2006 and 2008, p. 300.

Comparison of % of Overall Usage and % of Consumption Reductions by Class

Customer Class	Base Period Forecast of Annual Energy Use (kWh)	% Use	Total Projected MWH Savings	% of Mandated Reductions of 422,565 MWH	% of Company-Projected MWH Savings
Residential (incl. Low Income	4,227,114,341	30.0%	165,193	39.1%	28.8%
Small C&I	3,368,552,825	23.9%	84,703	20.0%	14.8%
Large C&I	6,313,263,075	44.8%	260,549	61.7%	45.5%
Governmental & Nonprofit	Included in C&I Forecasts		62,814	14.9%	10.9%
Other	176,581,466	1.3%	N/A	N/A	N/A
Total	14,085,511,707	100%	573,259		100%

Source: EE&C/DR Plan, Tables 2 and 5; EE&C/DR Study, Monthly Control Area KWH Forecast at 163.

Impact of Surcharge on Monthly Rates by Class

Customer Class with Avg. Monthly Use(kwh)/Demand(kw)	Monthly Increase ($)	% Increase Over Existing Rates
Residential (600 kwh)	$ 1.14	1.4%
Small & Medium Commercial (10,000 kwh/30 kw)	$ 11.00	1.2%
Small & Medium Industrial (10,000 kwh/30 kw)	$ 20.00	2.2%
Large Commercial (200,000 kwh/750 kw)	$ 1449.50	4.6%
Large Industrial (200,000 kwh/750 kw)	$ 1121.50	4.6%

Source: Company Response to OCA Informal Discovery Request

When reviewing these charts, the OCA is mindful of the other requirements of the Act for particular customer segments, the budgetary constraints and the need for the Plan to pass the TRC. We are also mindful of the Commission's statements in its Implementation Order:

> Furthermore, there is no consensus as to what denominator (per capita, usage, revenue, potential for savings, etc.) to use if one were to attempt to require a proportionate distribution.
>
> We will not require a proportionate distribution of measures among customer classes. However, we direct that each customer class be offered at least one energy efficiency and one demand response program. While we will leave the initial mix and proportion of energy efficiency and demand response programs to the EDCs, we expect the EDCs to provide a reasonable mix of energy efficiency and demand response programs for all customers.

Implementation Order at 23.

Given the Commission's determination not to require a proportionate distribution of measures, the cost effectiveness of the Plan both as a whole and for each customer class, the savings achieved for each class, and the fact that Duquesne has surpassed the requirement that there be at least one energy efficiency program for each customer class, the OCA submits that Duquesne has achieved a portfolio of programs that is balanced and cost-effective.

III. COMMENTS ON COST RECOVERY

A. Introduction

The Company's Direct Testimony sets forth its proposed cost recovery mechanism for EE&C/DR Plan expenses. Specifically, Company witness William V. Pfrommer describes Duquesne's intention to implement five separate surcharges, one applicable to each of the following customer classes: (1) residential, (2) small and medium commercial, (3) small and medium industrial, (4) large commercial and (5) large industrial. Duquesne St. 4 at 5. Each of the surcharges will be reconcilable and will accrue interest for any over or undercollections. Id. at 10. However, the Company proposes different reconciliation periods for the various surcharges. The surcharges applicable to residential, large commercial and large industrial customers will be subject to a one-time reconciliation in June 2013, at the conclusion of the 42-month implementation period of Act 129. The surcharges applicable to small and medium commercial and small and medium industrial customers, by contrast, will be subject to annual reconciliation over the same time period. Id. at 8-9. Because the EE&C/DR Plan is expected to benefit both shopping and non-shopping customers, each of the surcharges will be non-bypassable. Id. at 10. It appears from witness Pfrommer's testimony that the surcharges will be included as part of the distribution rates for each customer class and will not appear as a separate line item on customers' bills. Absent significant inter-class program fund shifting, Duquesne proposes to recover the costs of the EE&C/DR Plan on a levelized basis. In keeping with the requirement of Act 129, the Company states that it will implement its surcharges so as to recover costs as close as reasonably possible from the customer class receiving the benefit of a particular EE&C/DR program. Id. at 5.

The residential, small and medium commercial and small and medium industrial surcharges are designed to recover applicable program costs on a levelized cents per kWh basis. Id. at 8. The large commercial and large industrial surcharges, however, will recover applicable costs through the combination of a fixed monthly amount and a levelized dollar per kW charge. Id. at 9.

Duquesne has indicated that its Program Budget will vary over the 4-year course of the EE&C/DR Plan. In some program years, expenditures may exceed the annual 2% cost cap, while in other program years, expenditures may be less than the cap. Duquesne St. 1 at 9. Over the four program years, however, the total cost of the EE&C/DR Plan for all customer classes will not exceed $78.2 million.[5] Id.

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5 Duquesne witness Sandoe testifies that the costs for the statewide Act 129 evaluator are not included within the Company's 2% cost cap calculation. See, Duquesne St. No. 1 at 10. However, the statewide evaluator costs, as estimated by Duquesne, are included in the calculation of each of the five surcharges. Petition at 5.

The total cost of the Plan will include the costs incurred to develop the Plan. The Company has included plan development activity within the administrative costs of its Program Budget. Duquesne St. 1 at 10.

B. OCA Issues/Recommendations With The Cost Recovery Mechanism

1. The OCA Supports A Levelized Cost Recovery Mechanism, But it Should Be Without Interest on Over or Undercollections.

The OCA anticipates that Plan expenditures will vary, perhaps significantly, on a year by year basis. To provide more stability for customer rates, the Company is proposing to recover the same levelized amount each year from customers. This will allow the Company the flexibility to spend each year based on program ramp up needs, program success and market conditions (within the total spending cap) to maximize Plan implementation without undue volatility in customer rates. The OCA supports this approach to cost recovery, particularly for residential customers, to avoid any undue volatility and confusion in rates.[6]

The OCA, however, does not support the Company's proposal to charge interest on any under or overcollection that may occur as a result of this levelization. Duquesne St. 4 at 10; Exh. WPV-10(Proposed Tariff) at Second Revised Page No. 100, Original Page Nos. 100A-100C. The spending constraint contained in the Act does not contemplate interest charges. In other words, in the OCA's view, Duquesne has a four-year amount of $78.2 million that it can spend, not $78.2 million plus interest. Further, the OCA expects that with levelization, the interest would likely balance out over time. Duquesne should drop its proposal to impose

[6] While the OCA generally favors a one-time reconciliation for residential customers as Company witness Pfrommer points out, the OCA would caution that if a significant over or undercollection develops during the course of the program, the Company should discuss that development in the stakeholder process and seek a collaborative solution to the situation. It is the OCA's view that mid-course corrections should be considered if there are large deviations from the expected in order to avoid significant adjustments near the end of the Plan.

interest on the over and undercollections of its cost recovery and ensure that all funds are used for program implementation and administration.

2. The Company Should Be Required To Bid Qualifying Energy Efficiency and Demand Response Resources Into The PJM RPM Auction And Credit Customers For The Value Received In The Cost Recovery Mechanism.

Beginning with the Auction conducted in May 2009, PJM has modified its Reliability Pricing Model (RPM) auction process to allow for the inclusion of energy efficiency and demand response resources. Qualifying energy efficiency and demand response resources can now bid into the PJM auctions as a capacity resource and if cleared, receive capacity payments. The OCA submits that Duquesne should be directed to explore this option and to bid its qualifying resources into the auctions. Capacity payments can provide a significant value that should then be credited to all customers through the cost recovery mechanism to offset the costs that they must bear under the Act.

3. Statewide Evaluator Costs

In its testimony, Duquesne indicates that it did not include the costs of the statewide evaluator within its 2% cost cap. Duquesne St. 1 at 10. Duquesne states that if the Commission finds that the statewide evaluator should be included within the EDCs' budgets, it will scale back its program budgets and make appropriate adjustments. Id.

The OCA submits that the 2% spending cap should include the statewide evaluator costs as these costs represent necessary costs of the EE&C/DR Plan. Therefore, the EE&C/DR Plan budget must accommodate the inclusion of the costs of the statewide evaluator and Duquesne should include the costs related to the statewide evaluator in the $78.2 million capped spending level.

4. Line Item on Bill vs. Distribution Rates

In his testimony, Company witness Pfrommer states that Duquesne intends "to add the surcharge to the existing delivery charges of each applicable tariff rate schedule." Duquesne St. 4 at 11. The OCA reads this to mean that the amount of the surcharge will be rolled into distribution rates and not treated as a separate line item on the bill. The OCA supports this treatment of the surcharge.

IV. STAKEHOLDER PROCESS AND PLAN ADJUSTMENT PROCESS

A. On-Going Stakeholder Process

In its filing, Duquesne expresses its intention to continue the stakeholder process during the implementation of its EE&C/DR Plan. Duquesne St. 1 at 12. The OCA welcomes this expression and intends to participate in the on-going stakeholder process as its time and resources permit. The OCA found the initial stakeholder process to be useful in developing a more fully informed Plan and in resolving a number of issues presented by the requirements of the Act in a beneficial manner. The OCA submits, however, that the Commission should include some additional detail regarding the stakeholder process in Duquesne's Plan and its Order to ensure that the process continues on a regular basis and provides a reasonable means of addressing Plan implementation and any needed Plan modifications.

The OCA submits that the stakeholder process should include meetings, at a minimum, on a quarterly basis during the Plan implementation. The Company should provide the stakeholders with necessary information regarding Plan implementation, including reports on the progress of selecting Conservation Service Providers, the expected costs, the progress toward implementation, penetration rates and savings levels achieved to date, and cost recovery to date. The OCA would also expect that the Company would work with the stakeholder group to review implementation issues, program issues that arise, educational or promotional materials that are being developed so that the stakeholders can provide their input. Other information and exchanges would also be included within the process, such as information regarding the American Recovery and Reinvestment Act funding or any new legislation that impacts the EE&C/DR Plan. The OCA recommends that as with the initial stakeholder process, the process remain an open exchange of ideas and information.

The OCA again commends Duquesne in its stakeholder efforts and in its willingness to continue this process. Given the significance of the effort needed to implement the EE&C Plan in a cost-effective manner for all customers, the OCA urges that the commitment to the process be formalized so that all stakeholders can count on continuing to make contributions to the EE&C/DR Plan.

B. Mid-Course Corrections

In its filing, Duquesne states that it will monitor the implementation of the EE&C/DR Plan to determine which programs are acceptable to customers and those that are not achieving anticipated participation. Based on its review, the Company will modify individual programs or projects, as needed, to better achieve the Plan's goals. Petition at 6.

Similarly, Duquesne requests the authority to move budgeted dollars within a customer class, or between customer classes, if it finds that the resources would provide a better benefit and return as a result of the move. Petition at 5. If interclass fund shifting occurs, Duquesne acknowledges that adjustments to the surcharge rates may be needed if a material over or undercollection is projected to occur. Id. Duquesne will make appropriate adjustments to the reconciliations and balancing accounts to ensure that no cross-class subsidization occurs. Id.

The OCA agrees with Duquesne that such mid-course corrections should be considered so that large changes in cost recovery or program participation are not required near the end of the process. The OCA recommends that the need for any mid-course corrections be considered through the stakeholder process as a first matter. This process should assist the Company in determining whether program changes are needed either within a class or between classes and can assist in determining whether any mismatch between spending and collection is becoming unduly large.

The Company has indicated that minor changes to programs or projects will be ongoing and will be reported to the Commission in the agreed upon reporting period for Duquesne's Plan. Major changes, however, will be presented formally to the Commission for review and approval. Petition at 6. The OCA does not object to such a process.

V. CONCLUSION

The OCA appreciates this opportunity to provide Comments and offer the testimony of its expert witness (which will be presented in the evidentiary portion of the proceeding) on this important topic. The OCA concludes that with the modifications outlined above, Duquesne's Plan is reasonable, balanced and cost-effective and should be implemented as an initial starting point for complying with the requirements of Act 129. Duquesne should consider the recommendations for improvement presented in these comments and in the testimony of its expert witness. The implementation of the Plan and any needed adjustments should be considered in an ongoing stakeholder process during the Plan period, with regular meetings, information and collaboration. The OCA encourages the Commission to consider and adopt the OCA's improvements and recommendations. With those changes, the OCA would recommend approval of Duquesne's Plan.

Respectfully Submitted,

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