**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Harrisburg, Pennsylvania 17105-3265**

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| **Petition of Duquesne Light Company for approval of Default Service Plan for the Period January 1, 2011 Through May 31, 2013.** |  | **Public Meeting held May 20, 2010****2135500-ALJ****Docket No. P-2009-2135500** |

**DISSENTING STATEMENT OF COMMISSIONER GARDNER**

The majority today approves Duquesne Light Company’s default service plan for the period of January 1, 2011 – May 31, 2013. I take issue with the method Duquesne has chosen to procure electric generation supply for its residential and street lighting classes.

Duquesne will provide default service to its residential customers for the 29 months of the default service period at a fixed rate of $78.60 per MWH. Duquesne will enter into a mix of bilateral contracts, of varying lengths with non-affiliated generators to secure the supply. Act 129 provides that our electric distribution companies (EDCs) may utilize competitively procured bilateral contracts to secure default supply. Furthermore, Duquesne’s proposed rate of $78.60 per MWH is not unreasonable for full-requirements supply for a similarly situated EDC. However, Duquesne notes that it will assume the risk of increases or decreases in default supply costs and changes in load that may occur in order to provide price stability to its residential and lighting customers. In other words, if at the time Duquesne enters into a supply contract, the lowest going rate is $68.60 per MWH, Duquesne will pocket the $10.00 per MWH price difference. If at the time Duquesne enters into a supply contract, the lowest available supply is $88.60, the $10.00 per MWH loss will come from Duquesne’s profits and that of its shareholders.

While Duquesne’s goal to provide its customers with price stability is noble, I do not believe it is rational. Duquesne’s proposal to assume the risk of generation increases and decreases effectively shields customers from the true cost of electricity generation. Also, the $78.60 per MWH price was an estimate created when this case was filed in October 2009, and was based on forward market conditions available at that time.

Additionally, the “least cost over time” standard for default service generation procurement mandated by Act 129 means, least cost for customers, not least cost for the utility. If the market fluctuates down from $78.60 per MWH when Duquesne enters into a supply contract for its customers, those customers will not be offered supply that was procured at the “least cost.”

Viewing this issue from the other end of the spectrum, if the market prices rise drastically above $78.60 per MWH at the time Duquesne enters into a supply contract, Duquesne has provided no plan outlining how it will pay for the supply costs without jeopardizing its fiscal health or compromising operations.

At the very least, the Plan approved today should have included a process for timely review of the bilateral contracts that Duquesne will enter into to secure generation supply for its residential and lighting customers. Without such a review process, the Commission has effectively ceded away its authority to determine whether the contracts entered into are competitive or fair under Subsection 2807(e)(3.1) of the Code, 66 Pa. C.S. § 2807(e)(3.1).

Also of concern to me is the Settlement term which allows Duquesne to continue to procure ancillary services for its residential, lighting, small Commercial and Industrial, and Medium Commercial & Industrial default service customers from Duquesne Power, through the existing Power Supply Agreement used by the parties in Duquesne’s last default service plan. Duquesne will continue to recover the ancillary services costs for these classes via its transmission service charge. No discussion exists in this record regarding whether these services could have been procured competitively, from a non-affiliate, for a better cost.

Based on the foregoing, I respectfully register my dissent.

 **May 20, 2010 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Date Wayne E. Gardner, Commissioner**