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File #: 2267/149302

August 26, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed is the Joint Petition for Settlement in the above-referenced proceeding.

Copies have been provided to the persons in the manner indicated on the certificate of service.

Respectfully Submitted,

Andrew S. Tubbs

AST/skr
Enclosures
cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: August 26, 2011

Andrew S. Tubbs

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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 **(Petition for Approval of Modifications to its Demand Response Programs)**	: : : : :	Docket No. M-2009-2093217

<u>JOINT PETITION FOR SETTLEMENT</u>

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE JOHN H. CORBETT, JR.:

I. <u>INTRODUCTION</u>

The Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), Duquesne Industrial Intervenors ("DII"), Comverge, Inc. ("Comverge") and Duquesne Light Company ("Duquesne Light" or "Company"), all of the active parties to the above-captioned proceeding (hereinafter collectively referred to as the "Joint Petitioners"), hereby join in this Joint Petition for Settlement ("Settlement") and respectfully request that Administrative Law Judge John H. Corbett, Jr. ("ALJ") and the Commission approve the Settlement as set forth below.

Joint Petitioners have agreed to a settlement that resolves all issues among the parties in the above-captioned proceeding. In addition, the Settlement is being served upon all parties that participated in Duquesne Light's original EE&C Plan proceeding. As discussed below, the Settlement provides for, *inter alia*, the implementation of a scaled down demand response ("DR") program for Duquesne Light's Residential and Small/Midsize Commercial and Industrial ("C&I") customers, an expanded DR program for the Company's Large C&I customers, and additional funding to the Company's residential and small/Midsize C&I Energy Efficiency Programs.

In support of this Settlement, the Joint Petitioners state the following:

II. BACKGROUND

1. Duquesne Light is a public utility and an electric distribution company ("EDC") as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803. Duquesne Light furnishes electric distribution and provider of last resort ("POLR") electric supply services to approximately 579,000 customers throughout its certificated service territory, which includes all or portions of the City of Pittsburgh and Allegheny and Beaver Counties, Pennsylvania.

2. On June 30, 2009, Duquesne Light filed its Energy Efficiency and Conservation Plan ("EE&C Plan") with the Commission, pursuant to Act 129 and various related Commission orders. The Duquesne Light EE&C Plan proceeding was docketed by the Commission at Docket No. M-2009-2093217. The Commission approved Duquesne Light's EE&C Plan, with modifications, on October 27, 2009, in *Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan*, Docket No. M-2009-2093217 (Order Entered October 27, 2009) ("*EE&C Order*").[1]

3. Duquesne Light's EE&C Plan includes a broad portfolio of energy efficiency, conservation practices and peak load reductions, and energy education initiatives. Duquesne Light's portfolio of programs is designed to provide customer benefits and to meet the energy saving and peak load reduction goals set forth in Act 129. The EE&C Plan includes a range of energy efficiency and demand response programs that include every customer segment in Duquesne Light's service territory. These programs are the key components of a comprehensive electric energy efficiency initiative designed to achieve the 422,565 megawatt

[1] The EE&C Plan was further revised by *Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093217 (Order Entered January 28, 2011).

hours ("MWh") of reduced energy consumption and 113 megawatts ("MW") of peak demand reductions required by Act 129.

4. In approving Duquesne Light's EE&C Plan, the Commission established a process for the Company to follow to request modifications to its approved EE&C Plan.

5. On May 9, 2011, Duquesne Light filed a Petition for Approval of Changes to its energy Efficiency and Conservation and Demand Response Plan ("Petition"), requesting certain modifications to its currently effective EE&C Plan which require Commission approval.

6. On May 19, 2011, the OCA filed an Answer to Duquesne Light's Petition.

7. On May 19, 2011, an Answer was filed by DII to Duquesne Light's Petition.

8. On May 25, 2011, Duquesne Light filed a response to the answers of DII and OCA. In addition, on May 25, 2011, Comverge, Inc. filed a Notice of Intervention.

9. Duquesne Light filed an Answer to Comverge's intervention on June 3, 2011.

10. By Order entered on June 30, 2011, the Commission referred Duquesne Light's Petition to the Office of Administrative Law Judge for expedited evidentiary hearings. The Commission also granted Comverge's Petition to Intervene.

11. A Prehearing Conference was scheduled for July 28, 2011. Prior to the Prehearing Conference, the parties agreed to a procedural schedule. Prehearing memoranda were filed by Duquesne Light, OCA, OSBA, DII, and Comverge wherein the parties identified potential issues and witnesses.

12. The Prehearing Conference was held as scheduled on July 28, 2011. At the Prehearing Conference, ALJ Corbett established the litigation schedule.

13. Pursuant to the established litigation schedule, Duquesne Light served direct testimony on August 12, 2011.[2]

14. The parties were involved in a number of discussions over the course of this modification proceeding. As a result of those discussions, Duquesne Light, OCA, DII, and Comverge have reached a settlement of all issues in this proceeding prior to the date scheduled for evidentiary hearings.[3]

III. SETTLEMENT

15. The Joint Petitioners agree as follows:

16. Duquesne Light agrees to withdraw its proposal to eliminate its Air Conditioner Cycling Demand Response Program to its Residential and Small/Midsized C&I customers. However, the Company will modify the scope of these programs by combining and lowering the budget for the Residential and Small/Midsized C&I Air Conditioner Cycling Demand Response Program from the current budget levels of $2,928,071 and $992,200 respectively to a combined $1,100,000. The costs of the program will be split between residential and small/midsized customers for cost recovery purposes based on the number of residential customers and small/midsized customers enrolled in the program. Comverge will serve as the sole conservation service provider ("CSP") for Duquesne Light's Residential and Small/Midsized C&I Air Conditioner Cycling Demand Response Programs.

17. Duquesne Light will transfer the difference between the original budgeted amount for its Residential Air Conditioner Cycling Demand Response Programs, and the amount allocated to the Residential rate classes pursuant to paragraph 16 above, to the

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[2] Duquesne Light's testimony supports the Settlement and was served on all parties that participated in Duquesne Light's EE&C Plan proceeding.
[3] The OSBA, an intervenor in this proceeding, has indicated that it does not object to the Settlement.

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Company's Residential energy efficiency programs. More specifically, the budgeted funds not used for the Residential demand response program shall be transferred to the Residential energy efficiency programs/measures identified in paragraph 20 below. Likewise, Duquesne Light will transfer the difference between the original budgeted amount for its Small/Midsized C&I Air Conditioner Cycling Demand Response Program, and the amount allocated to the Small/Midsized C&I rate classes pursuant to paragraph 16 above, to the Company's Small/Midsized C&I energy efficiency programs. More specifically, the budgeted funds not used for the Small/Midsized C&I demand response program shall be transferred to the Small/Midsized C&I energy efficiency programs/measures identified in paragraph 21 below.

18. Duquesne Light will increase the expected demand reductions for its Curtailable Load Program for Large Commercial & Industrial customers from 10.8 MW to up to 60 MW in order to assist the Company to achieve 113 MW of demand reductions required under Act 129. To achieve the increase in demand reductions, the Company will spend the full amount of the approved budget of $556,000 for the program, now expected to result in 40 MW of demand reduction. In addition, the Company will be permitted to transfer funds currently budgeted for the Company's existing Large C&I energy efficiency programs to its Curtailable Load Program at a level required to achieve up to an additional 20 MW of demand reductions. Relative to the potential additional 20 MW of demand reductions, funds transferred from the Large C&I energy efficiency program/measure will be allocated proportionally to the customer classifications of the Large C&I customers in Duquesne Light's Large C&I EE&C Plan. The expected cost to achieve these additional demand reductions is approximately $300,000.

19. Duquesne Light agrees that it will accept approximately 20 MW of demand reductions from Large C&I customers or Large C&I customers' PJM curtailment service providers directly rather than requiring that all demand reductions be administered by Duquesne Light's Curtailable Load Program CSP, provided that the direct Large C&I customer demand reductions are needed to meet the goals of Duquesne Light's EE&C Plan and are more cost effective than what Duquesne Light's Curtailable Load Program CSP can provide.

20. Duquesne shall transfer the budgeted funds not used for the Residential demand response program to the following Residential Energy Efficiency Programs/Measure(s):

a. Transfer an amount not to exceed $850,000 from Residential demand response to Residential energy efficiency for the following new measure under Residential Energy Efficiency. Duquesne Light will pilot a Behavioral Modification and Education program to 50,000 high use customers. This pilot will reach the highest 20% of users. These customers will receive Home Energy Reports. The Home Energy Reports will engage customers and motivate them to save energy by translating energy information into relevant, actionable insights. Reports are customized for each household based on user profiles. Customers can evaluate their energy consumption in comparison to that of similar homes. The Behavioral Modification and Education program selects similar homes based on factors such as square footage, dwelling type and geographic considerations. Utilizing the behavior science technique of comparing people to their peers has proven to drive action. The selected contractor will build customer profiles by combining utility data with independently sourced demographic and geographic data. These profiles provide the foundation for targeted, relevant energy efficiency recommendations. This individualized information can maximize the likelihood that customers will take action. Additional options can include web portal access for each household, interactive channel that includes e-mail and text messaging.

b. Transfer an amount not to exceed $250,000 from Residential demand response to Residential energy efficiency for the existing Schools Energy Pledge Program. Duquesne Light proposes to transfer an amount not to exceed $250,000 to the schools program. This program has been greatly successful to date. The additional funding would allow additional schools to participate in the program. This program provides a conservation kit for each participating family.

c. Transfer an amount not to exceed $500,000 from Residential demand response to Residential Energy Efficiency Rebate Program, to specifically focus on appliance rebates to build upon the success of the upstream Compact Fluorescent Lamps discount program, Duquesne Light proposes to create in store awareness of the residential rebate program that will focus on energy efficient appliances and other energy efficient product rebates. The store network will include over 50 retailers within the service territory that sell eligible rebated products. Store personnel will be trained on the rebate programs and eligibility requirements. These promotions will be highly visible and encourage a broad range of customer participation. Stores will be visited regularly to ensure that trained sales staff is available to answer and promote rebate participation. The cost to implement this awareness will not exceed $500,000.

d. For any remaining funds, Duquesne Light will develop proposals for the expenditure of these funds and present these proposals to its stakeholders to solicit input prior to seeking Commission approval to further modify its EE&C Plan.

21. Duquesne shall transfer the budgeted funds not used for the Small/Medium demand response program equally to the following Small/Medium Energy Efficiency Programs/Measures :

a. Small/Medium Commercial Umbrella Program
b. Small/ Medium Industrial Umbrella Program
c. Small/Medium Retail/Restaurant Program
d. Small/Medium Education Program
e. Small/Medium Mixed Industry Program

IV. SETTLEMENT IS IN THE PUBLIC INTEREST

22. This Settlement reduces the administrative burdens on the Commission and avoids any extensive litigation expenditures because it resolves all of the issues in this proceeding without administrative adjudication.

23. Duquesne Light, OCA, DII and Comverge are in full agreement and respectfully submit that expeditious Commission adoption of the Settlement is in the best interests of all parties and Duquesne Light's customers.

24. Joint Petitioners have submitted, along with this Settlement Petition, their respective Statements in Support setting forth the basis upon which each believes the Settlement to be fair, just and reasonable and therefore in the public interest. The Joint Petitioners' Statements in Support are attached hereto as Appendices "A" through "D".

V. CONDITIONS OF SETTLEMENT

25. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with litigation and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of any Order modifying the Settlement.

26. This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceedings. If the Commission does not approve the Settlement and the proceedings continue to further hearings, the Joint Petitioners reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner may adopt in the event of any further litigation in these proceedings.

27. This Settlement and its terms and conditions may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

28. The Commission's approval of the Settlement shall not be construed to represent approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement in these and future proceedings involving Duquesne Light.

29. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise, and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in these proceedings if they were fully litigated.

30. This Settlement is being presented only in the context of these proceedings in an effort to resolve the proceedings in a manner which is fair and reasonable. The Settlement is the product of compromise between and among the Joint Petitioners. This Settlement is presented without prejudice to any position that any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of this Settlement.

31. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their individual rights to file Exceptions with regard to the Settlement.

VI. CONCLUSION

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That the Honorable Administrative Law Judge John H. Corbett, Jr. and the Commission approve this Settlement including all terms and conditions herein;

2. That Duquesne Light be permitted to modify its demand response programs and energy efficiency programs and transfer funds according to the terms and conditions herein; and

3. That the Commission enter an Order consistent with this Settlement.

Respectfully submitted,

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For: *Duquesne Light Company*

Date: 8/26/11

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Date: Aug. 26, 2011

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Appendix A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of Changes to its Energy Efficiency and Conservation and Demand Response Plan **(Petition for Approval of Modifications to its Demand Response Programs)**	:	Docket No. M-2009-2093217

STATEMENT OF DUQUESNE LIGHT COMPANY IN SUPPORT OF SETTLEMENT

Duquesne Light Company ("Duquesne Light" or the "Company") submits this Statement in Support of the Joint Petition for Settlement in the above-captioned proceeding ("Settlement"). Signatories to the Settlement are Duquesne Light, the Office of Consumer Advocate ("OCA"), Duquesne Industrial Intervenors ("DII"), and Comverge, Inc. ("Comverge"), parties to the above-captioned proceeding (hereinafter collectively referred to as the "Joint Petitioners").[1] Duquesne Light respectfully requests that Administrative Law Judge John H. Corbett, Jr. (the "ALJ") and the Pennsylvania Public Utility Commission ("Commission") approve the Settlement, including the terms and conditions thereof, without modification.

The Settlement, if approved, will resolve all issues raised by the Joint Petitioners in this proceeding. Given the diverse interests of the Joint Petitioners and the active role they have taken in this proceeding, the fact that they have resolved their respective issues in this proceeding, in and of itself, provides strong evidence that the Settlement is reasonable and in the public interest. The Settlement was achieved after a thorough review of Duquesne Light's proposal in this proceeding. The Joint Petitioners undertook informal discovery and participated

[1] The Office of Small Business Advocate ("OSBA"), an intervenor in this proceeding, has indicated that it does not object to the Settlement.

in a number of settlement discussions which ultimately led to the Settlement. In addition, Duquesne Light served direct testimony for inclusion in the record which supports the Settlement.

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners in this proceeding. The Joint Petitioners believe that approval of the Settlement is in the public interest. For these reasons, and the reasons set forth below, Settlement is just and reasonable and should be approved. In support thereof, Duquesne Light states as follows:

I. INTRODUCTION

Duquesne Light is a public utility and an electric distribution company ("EDC") as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803. Duquesne Light furnishes electric distribution to approximately 579,000 customers throughout its certificated service territory, which includes all or portions of the City of Pittsburgh and Allegheny and Beaver Counties, Pennsylvania. Duquesne Light also provides provider of last resort ("POLR") electric supply services in its service territory.

On June 30, 2009, Duquesne Light filed its Energy Efficiency and Conservation Plan ("EE&C Plan") with the Commission, pursuant to Act 129[2] and various related Commission orders. The Duquesne Light EE&C Plan proceeding was docketed by the Commission at Docket No. M-2009-2093217. The Commission approved Duquesne Light's EE&C Plan, with modifications, on October 27, 2009, in *Petition of Duquesne Light Company for Approval of its*

[2] On October 15, 2008, Governor Rendell signed House Bill No. 2200, subsequently identified as Act No. 129. Act 129 created an energy efficiency and conservation program, codified in the Pennsylvania Public Utility Code at Sections 2806.1 and 2806.2, 66 Pa.C.S. §§ 2806.1 and 2806.2.

Energy Efficiency and Conservation and Demand Response Plan, Docket No. M-2009-2093217 (Order Entered October 27, 2009) ("*EE&C Order*").[3]

Duquesne Light's EE&C Plan is designed to provide customer benefits and to meet the energy saving and peak load reduction goals set forth in Act 129. The EE&C Plan includes a broad portfolio of programs designed to produce and encourage energy efficiency and peak load reductions. It is also includes energy education initiatives that include every customer segment in Duquesne Light's service territory. These programs are the key components of comprehensive electric energy efficiency and demand reduction initiatives designed to achieve the 422,565 megawatt hours ("MWh") of reduced energy consumption and 113 megawatts ("MW") of peak demand reductions required by Act 129.

On May 9, 2011, Duquesne Light filed a Petition for Approval of Changes to its Energy Efficiency and Conservation and Demand Response Plan ("Petition"), requesting certain modifications to its currently effective EE&C Plan which require Commission approval. Specifically, Duquesne Light's Petition proposed to eliminate the Residential and Small/Midsize C&I air conditioning cycling programs due to a lack of cost effectiveness and to transfer the remaining budget to the energy efficiency programs. In addition, Duquesne proposed to expand the Large C&I demand reduction program from 10.8 MW to up to 60 MW in order to achieve the statutory reduction targets.

The Joint Petitioners held several settlement conferences and exchanged settlement proposals and counter-proposals. As a result of the conferences and the efforts of the Joint

[3] The EE&C Plan was further revised by *Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093217 (Order Entered January 28, 2011).

Petitioners to examine the issues raised, a settlement in principle of all issues was reached prior to the dates set for the evidentiary hearings.

In the Settlement, the Joint Petitioners agree that the Commission should approve the proposed modifications to Duquesne Light's EE&C Plan, subject to the terms and conditions set forth in the Settlement. The Settlement fully resolves the Joint Petitioners' issues in this proceeding, and reflects a carefully balanced compromise of the interests of the Joint Petitioners.

II. COMMISSION POLICY FAVORS SETTLEMENT

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. P.U.C. v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. P.U.C. v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991). For the reasons laid out in its Statement in Support of Settlement, Duquesne Light believes that the Joint Petition for Settlement is just, reasonable, and in the public interest and, therefore, should be approved without modification.

III. TERMS OF THE SETTLEMENT

This Settlement is in the public interest because it will allow Duquesne Light to reallocate funding for programs under the EE&C Plan to more efficient programs and to assist the Company in meeting its Act 129 obligations.

A. <u>Residential and Small/Midsized C&I Demand Response Program</u>

In its Petition, Duquesne Light proposed to eliminate the Demand Response Programs for Residential and Small/Midsized C&I customers. Under the Settlement, Duquesne Light will continue to offer the program to customers but at a reduced funding level.

When Duquesne Light filed its EE&C Plan on June 30, 2009, it projected a total of 199 MW of demand reductions in order to create a buffer over the required goal of 113 MW. Duquesne Light St. No. 1, p. 3. To achieve this target, Duquesne Light projected that approximately 26.2 MW would come from the Demand Response program for Residential and Small/Midsized C&I customers. *Id.* The proposed Demand Response program was a Residential and Small/Midsized C&I air conditioner cycling program. At the time of the original EE&C Plan, the total resource cost ("TRC") for this program was 1.4. *Id.* at 5. However, Duquesne Light now only expects to achieve 5 MW of peak shaving from Residential and Small/Midsized C&I customers at a cost of $3.9 million for this program, which has dropped the TRC to 0.03 due to the shift in the cost to load reduction ratio. *Id.* at 6. Indeed, since the Company began marketing this Demand Response program in March of 2011, only approximately 1,000 residential customers have expressed an interest in participating. *Id.* at 7. For these reasons, the Company proposed to eliminate this program in its Petition.

Rather than eliminate the programs entirely, as a result of discussions with the parties and giving consideration to customers that already have signed on to the program, the Company has agreed in the Settlement to maintain the Demand Response Program at a level commensurate with the level of customer interest in these programs. Settlement ¶ 16. Specifically, if the Settlement is approved, Duquesne Light will combine and lower the budget levels for the Residential and Small/Midsized C&I Demand Response program from the current budget levels of $2,928,071 and $992,200, respectively, to a combined $1,100,000. Duquesne Light St. No. 2, pp. 7-8, 11. The $1.1 million funding level was determined by reviewing the cost of equipment, installation, software and hosting, call center, operations, and program management for those customers expressing an interest in participating plus a buffer of about 300 possible future enrollee customers for a total of about 1,500 customers. Duquesne Light St. No. 1, pp. 8-9. At these levels, the Company expects to achieve approximately 1 MW of load reduction. Duquesne Light St. No. 2, p. 11.

The costs of the program will be split between Residential and Small/Midsized C&I customers for cost recovery purpose, based on the number of Residential customers and Small/Midsized C&I customers enrolled in the program. Duquesne Light conducted a Request For Proposal ("RFP"), wherein Comverge was identified as the preferred conservation service provider ("CSP"). *Id.* at 8. As provided for in Paragraph 16 of the Settlement, Comverge will be the sole CSP for the Residential and Small/Midsized C&I Demand Response program if the Commission approves the Settlement.

The Settlement provides that Duquesne Light will transfer approximately $2,800,000 from the undersubscribed Residential and Small/Midsized C&I Demand Response program to programs that will more successfully target Residential and Small/Midsized C&I energy consumption. The following three Residential energy-efficiency programs, in particular, will benefit from the Settlement:

a. A pilot Behavioral Modification and Education program targeting 50,000 high use customers will receive an amount not to exceed $850,000. This new program will reach the highest 20% of residential users on Duquesne Light's system. Duquesne Light Exhibit DWD-2.

b. The Schools Energy Pledge Program will receive an amount not to exceed $250,000. This program has been greatly successful to date, and the additional funds would allow more schools to participate. *Id.*

c. To build upon the success of the upstream Compact Fluorescent Lamps discount program, an amount not to exceed $500,000 will be used to create in-store awareness of the residential rebate program, with a focus on energy efficient appliances and other energy efficient product rebates. *Id.*

Duquesne Light anticipates that the pilot Behavioral Modification and Education program, which is modeled off a successful PPL Electric program, will have a significant impact. Duquesne Light St. No. 1, p. 10. The program will provide customers with customized Home Energy Reports that include individualized comparisons to other similar users, as well as actionable insights. Duquesne Light Exhibit DWD-2. The Schools Energy Pledge program and the Company's Compact Fluorescent Lamps discount program will receive additional funds as part of the Settlement. *Id.* These two programs have already proven to be successful in reducing energy consumption. Increased funding will enable additional schools to participate and provide the funding necessary to establish an in the store awareness of the Company's residential rebate program for CFLs. *Id.* For any remaining funds, Duquesne Light will develop proposals for the expenditure of the funds and present such proposals to its stakeholders for input and collaborative decision making. If no clear preference is established, Duquesne will move any remaining funds to its residential energy efficiency rebate program. Duquesne Light Exhibit DWD-2.

Funds originally allocated to the Small/Midsized C&I Demand Response program will be directed equally to the following Small/Medium energy efficiency programs: Commercial Umbrella; Industrial Umbrella; Retail/Restaurant; Education; and Mixed Industry. Settlement ¶ 21. All existing commercial and industrial energy efficiency program/measures pass the TRC and are cost effective. Duquesne Light Exhibit DWD-2. The only energy efficiency program that would not be funded is "Offices", which does not need additional funding.

The Company believes that it is in the public interest to continue to offer the Demand Response Program to its Residential and Small/Midsized C&I customers, particularly to those

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that have expressed interest. However, the original allocation of funds greatly exceeded the actual customer demand for those programs. Duquesne Light St. No. 1, p. 10-11. By tailoring the programs to meet customer demand, the Settlement strikes the appropriate balance between meeting customer needs and allowing the Company to use funds in an efficient manner, and provides Duquesne Light with a better opportunity to meet its Act 129 obligations. By redirecting funds that would otherwise go unused to programs that will be successful, the Settlement increases the Company's efficiency, and is therefore in the public interest.

B. Large C&I Curtailable Load Program

The Settlement will allow Duquesne Light to increase the funding available to one of its most cost effective demand reduction programs. As approved in the Company's EE&C Plan, the Large C&I Curtailable Load program is a program targeted to approximately 50 participants ramping up to the summer of 2012. Duquesne Light St. No. 1, p. 5. Under the program, participating customers would be enrolled in advance of the 2012 summer season with a target load reduction for each facility. Duquesne Light St. No. 2, p. 12. Facilities would be called upon during peak hours to reduce load based on a few hours notice. *Id.* Facilities would be paid for performance on the basis of the load reduction for each curtailment event. *Id.* The total budget for this program was $556,656, including incentives. *Id.*

Duquesne Light's Act 129 target for peak load reduction is 113 MW. By recruiting more capacity from Large C&I customers under the Curtailable Load program, it will provide the Company with a greater chance that the target will be reached. Duquesne Light St. No. 2, p. 13. However, it appears that an increase in the budget of the Curtailable Load program will be needed to reach the target. *Id.* As explained below, the Company now projects that it will be able to achieve 40 MWs of demand reduction in this class at a cost of approximately $13,916/MW. Through the Settlement, the Company will be able to try to achieve an additional

20 MWs of reductions for a total of up to 60 MW of demand reduction through its Curtailable Load Program. Duquesne Light St. No. 2, p. 14.

When Duquesne Light filed its EE&C Plan on June 30, 2009, it projected a total of 10.8 MW of demand reduction from the Curtailable Load Program, with a TRC value of 4.4. Duquesne Light St. No. 1, p. 5. In March of 2010, Duquesne Light issued an RFP. Duquesne Light St. No. 2, p. 13. In subsequent discussions with the CSP, Duquesne Light learned that the CSP was both capable and willing to recruit more MWs of load reduction at an efficient cost. *Id.* As a result of these discussions, the Program is currently expected to result in 40 MW of reduction, with a TRC value of 1.37.[4] Duquesne Light St. No. 3, p. 4; Duquesne Light Exhibit TC-2.

To achieve the 40 MW of demand reduction, the Company will spend the full amount of the approved program budget, $556,000. *Id.* However, it is expected that approximately 20 MW of demand reduction from the Curtailable Load Program with an additional expenditure of about $300,000. Duquesne Light St. No. 2, p. 13. Under the Settlement, the Company will transfer funds currently budgeted for the existing Large C&I energy efficiency programs to its Curtailable Load Program to achieve the additional 20 MW of demand reductions. Settlement ¶ 18.

Duquesne Light's peak load reduction under Act 129 is 113 MW. The additional load reduction that can be obtained from Large C&I customers under the Curtailable Load Program will help Duquesne Light to meet its load reduction goal, in a cost effective manner and may, in fact, is necessary to reach its load reduction target. Duquesne Light St. No. 2, p. 14.

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[4] As explained by Duquesne Light witness Crooks, the value of electric capacity and energy on the wholesale markets has deteriorated dramatically, adversely impacting both the program benefits as well as program costs. The

In response to the requests of Duquesne Light's Large C&I customers, the Settlement also provides flexibility to Large C&I customers in how they may participate in the Curtailable Load Program. Under the Settlement, Duquesne Light has agreed to accept some or all of the additional 20 MW of demand reductions from Large C&I customers directly or through the customer CSPs, rather than requiring that all demand reductions be administered through Duquesne Light's Curtailable Load Program CSP. Settlement ¶ 19. However, Duquesne Light will only accept those direct Large C&I customer demand reductions if the reductions are needed to meet the goals of Duquesne Light's EE&C Plan and are more cost effective than those that can be obtained by Duquesne Light's Curtailable Load program CSP. *Id.*

Expanding the Large Curtailable Load Program presents the Company with an opportunity to significantly increase its demand reductions with only a modest allocation of funds. Duquesne Light Statement No., p. 14. Although demand reductions have been more difficult to achieve than the Company originally expected, with the modifications agreed to as part of this Settlement, Duquesne Light now expects to achieve overall demand reductions of approximately 120 MW (energy efficiency demand reductions (59 MW) and demand response reductions (61 MW). These results further Duquesne Light's EE&C Plan and the Company's ability to meet its 113 MW goal for the summer of 2012. Duquesne Light St. No. 2, pp. 14-15.

TRC for the Large C&I Curtailable Load program has dropped to 1.37 but is still above 1.0 and is cost effective. Duquesne Light St. No. 3, p. 4.

IV. CONCLUSION

The Settlement resolves all issues raised during this proceeding. For the reasons explained above, and those set forth in the proposed findings in the Settlement, the resolution of this proceeding in accordance with the terms of the Settlement is in the public interest.

Respectfully submitted,

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Date: August 26, 2011

Appendix B

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

STATEMENT OF THE
OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT

The Office of Consumer Advocate (OCA), one of the signatory parties to the proposed Joint Petition for Settlement of the Rate Investigation (Settlement) in the above-captioned docket(s), files this Statement in Support of the terms and conditions of the Settlement reached in this matter.

I. Background

Act 129 of 2008 mandated the Commonwealth's major electric distribution companies (EDCs) to reach certain energy consumption and peak demand reduction targets by milestone dates in 2011 and 2013. Under the Act, EDCs are required to reduce electricity consumption by 1 percent as of May 31, 2011 and by 3 percent as of May 31, 2013. Also as of May 31, 2013, EDCs must reduce their annual peak system demand by 4.5% over the top 100 summer hours. Pursuant to the requirements of Act 129, Duquesne Light Company (Duquesne or Company) filed an Energy Efficiency and Conservation and Demand Response Plan (Plan) with the Public Utility Commission (Commission) on June 30, 2009. As part of its effort to meet the peak demand reduction targets specified in the Act, Duquesne included within its Plan three demand response programs, one designed for residential customers, one for small and midsized commercial and industrial customers and one for large commercial and industrial customers. The programs designed for residential and small/midsized commercial and industrial customers were air conditioning cycling programs (A/C cycling) and the program aimed at large commercial and industrial customers was a curtailable load program.

On May 9, 2011, Duquesne filed a Petition with the Commission seeking approval of certain changes to the Demand Response (DR) component of its Plan. In particular, Duquesne proposed to eliminate the residential and small/midsized commercial and industrial air conditioning cycling programs because the Company had determined them to be not cost-effective. Instead, Duquesne proposed to shift the funds that would have been spent on the residential A/C cycling program ($2,928,070) to other existing residential energy efficiency programs. Duquesne did not identify the specific energy efficiency programs that would be funded. Instead it indicated that after an analysis of energy efficiency program performances, it would develop a proposed use of funds and seek Commission approval of its proposal.

As to the funds that Duquesne would have spent on the small and midsized commercial and industrial A/C cycling program, the Company proposed to shift these funds to the large commercial and industrial load curtailment program, which the Company maintains has been shown to achieve very cost effective demand reductions.

As support for its proposal, Duquesne stated that the cost effectiveness of the A/C cycling programs had deteriorated significantly since the Company first proposed them in 2009. Duquesne originally expected these programs to produce a demand reduction of 26.3 MW at a cost of approximately $150,000 per MW. Its latest estimates are that the programs will produce only 5 MW of demand reduction at a cost of about $780,000 per MW. As reasons for this deterioration in results, Duquesne cited implementation delays due to uncertainties about measurement and verification protocols, as well as reductions in the value of capacity and energy in the wholesale electric markets.

By contrast, Duquesne originally projected that its Large Commercial and Industrial load curtailment program would achieve 10.8 MW of demand reduction at a cost of approximately $51,550 per MW. It now estimates that this program will achieve 40 MWs of demand reduction for the same investment, meaning that each MW of reduction can be achieved for roughly $14,000 per MW. In addition, Duquesne maintained that by shifting the funds budgeted for the small and midsized commercial and industrial A/C cycling program to the Large C&I load curtailment program, it could attain additional reductions of at least 20 MW by way of the Large C&I program. To accomplish this, Duquesne estimated that it may have to spend only $300,000 of the amount transferred from the small and midsized C&I program.

On May 19, 2011, the OCA filed an Answer to Duquesne's Petition. In its Answer the OCA indicated that while it would not oppose Duquesne's proposed modifications, it continued to support residential load control programs as a long-term means of bringing about lower electric generation prices and greater reliability. The OCA further noted that if the residential A/C cycling program was implemented, the benefits of the program could extend well beyond the initial 2013 compliance date and that, over the course of time, the economics of the program could change.

The OCA also recommended that any reallocation of the money for the residential load control program to energy efficiency programs should be carried out in consultation with interested stakeholders.

An Answer to Duquesne's Petition was also filed by the Duquesne Industrial Intervenors (DII). Separately, on May 25, 2011, Comverge, Inc. filed a Petition for Intervention in which it included a statement of its "concerns" with Duquesne's Petition. Duquesne filed responsive pleadings to the Answers of the OCA and DII and to Comverge's Petition for Intervention.

By Order entered June 30, 2011, the Commission referred Duquesne's Petition to the Office of Administrative Law Judge for expedited evidentiary hearings. A Prehearing Conference was held on July 28, 2011 at which an abbreviated procedural schedule was established. Pursuant to that procedural schedule, Duquesne submitted Direct Testimony (Duquesne Testimony) on August 12, 2011.

Both before and after the Prehearing Conference, the parties engaged in discussions aimed at reaching a settlement of the issues raised by Duquesne's Petition. Those discussions proved fruitful in that the instant Joint Petition for Settlement proposes a complete settlement of those issues.

II. Terms and Conditions of the Settlement

Under the terms of the Settlement, Duquesne will withdraw its proposal to eliminate the residential and small commercial and industrial air conditioning cycling programs. However, these programs will go forward on a much smaller scale than originally proposed in Duquesne's Plan. The A/C cycling programs, which originally had a combined budget of $3.92 million, will be reduced to a budget of $1.1 million. Duquesne Testimony at 8. The amount spent on each program will depend on the number of residential customers and the number of small and midsized commercial and industrial customers that ultimately enroll in the respective programs.

The difference between the amount originally budgeted for the residential A/C cycling program ($2.928 million) and the amount actually spent will be transferred to the following residential energy efficiency programs:

a. Up to $850,000 will be used for a new residential energy efficiency program designed to reach customers with the highest 20% of use. This will be a Behavioral Modification and Education program. Participants will receive a customized Home Energy Report. They will be able to evaluate their energy consumption in comparison to the consumption in similar homes based on such factors as square footage, dwelling type and geography. By comparing participants to their peers, it is believed that participants will be impelled to take action to reduce consumption.

b. Up to $250,000 will be transferred to the existing Schools Energy Pledge Program. This funding will allow additional schools to participate in the program.

c. Up to $500,000 will be transferred to the existing Residential Energy Efficiency Rebate Program. The funds will be used to strengthen in-store awareness of the availability of rebates for energy efficient appliances. A network of 50 retailers that sell the eligible products will have their personnel trained to better promote the rebate program.

Duquesne Testimony, Exh. DWD-2.

With regard to the expenditure of any funds remaining from the residential A/C cycling program, Duquesne will develop proposals in consultation with stakeholders prior to seeking Commission approval of any further modifications to the Company's Plan. *Id.*

Any difference between the amounts originally budgeted for the small and midsized commercial and industrial A/C cycling program and the amounts actually spent will be similarly transferred to existing energy efficiency programs for such customers. *Id.*

The settlement preserves Duquesne's proposal to increase the demand reductions from its large commercial and industrial curtailable load program from 10.8 MW to 60 MW. As noted above, the increase from 10.8 MW to 40 MW is expected to be achieved through existing funding for the program. Under the settlement, however, the additional 20 MW of reductions will be funded not from the transfer of funding from the small and midsized commercial and industrial A/C cycling program, but rather from the transfer of dollars from existing energy efficiency programs for large commercial and industrial customers. Duquesne Testimony at 9-10.

III. The Joint Settlement Is In the Interest of Residential Customers

As noted in its Answer to Duquesne's Petition, while the OCA recognized that cost-effectiveness concerns might make it necessary to limit the direct load control program for residential customers at this time, the OCA expressed continued support for such programs as a means of meeting the demand reduction requirements of Act 129 and as a long-term means of achieving lower generation prices and greater system reliability. Further, the OCA expressed the view that while the economics of such a program may not now be favorable in Duquesne's territory, circumstances could change over time to make it cost-effective.

This settlement is in accord with the OCA's views. It maintains a direct load control program for residential customers, but reduces the originally proposed size of the program in recognition of the current reduced cost-effectiveness of the program.

The transfer of the remaining residential direct load control program funding to other residential energy efficiency programs is also in the interest of customers. The money is being transferred to two of the Company's most successful residential energy efficiency programs – the Residential Energy Efficiency Rebate Program and the Schools Energy Pledge Program – allowing further expansion of those programs. Money will also be used to fund a new Behavioral Modification and Education program which has met with success as part of the Energy Efficiency and Conservation Plans of other Pennsylvania EDCs. Duquesne Testimony at 10.

The settlement also provides that the disposition of any residential load control program funds that have not been earmarked for specific programs will be carried out in consultation with stakeholders, a recommendation the OCA made in its Answer to Duquesne's Petition.

For all of these reasons, the OCA submits that the settlement is in the interest of residential customers.

IV. Conclusion

In consideration of the various elements of the settlement that have been described above, the OCA submits that the terms and conditions of the settlement are in the public interest and should be approved.

Respectfully Submitted,

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August 26, 2011

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Appendix C

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan **(Petition for Approval of Modifications to its Demand Response Programs)**	: : : : :	Docket No. M-2009-2093217

STATEMENT OF DUQUESNE INDUSTRIAL INTERVENORS
IN SUPPORT OF SETTLEMENT

The Duquesne Industrial Intervenors ("DII"), by and through its counsel, submits that the Joint Petition for Settlement ("Joint Petition" or "Settlement"), filed in the above-captioned proceeding with the Pennsylvania Public Utility Commission ("PUC" or "Commission"), reflects a settlement among the Joint Petitioners with respect to all issues in this proceeding. As a result of settlement discussions, Duquesne Light Company ("Duquesne" or "Company"), Comverge, Inc. ("Comverge"), DII and the Office of Consumer Advocate ("OCA") (collectively, "Joint Petitioners") have agreed upon the terms embodied in the foregoing Joint Petition. DII offers this Statement in Support to further demonstrate that the Settlement is in the public interest and should be approved without modification.

I. BACKGROUND

1. Duquesne Light is a public utility and an electric distribution company ("EDC") as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803. Duquesne Light furnishes electric distribution and provider of last resort ("POLR") electric supply services to approximately 579,000 customers throughout its certificated service territory, which includes all or portions of the City of Pittsburgh and Allegheny and Beaver Counties, Pennsylvania.

2. On June 30, 2009, Duquesne Light filed its Energy Efficiency and Conservation Plan ("EE&C Plan") with the Commission, pursuant to Act 129 and various related Commission orders. The Duquesne Light EE&C Plan proceeding was docketed by the Commission at Docket No. M-2009-2093217. The Commission approved Duquesne Light's EE&C Plan, with modifications, on October 27, 2009, in *Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan*, Docket No. M-2009-2093217 (Order Entered October 27, 2009) ("*EE&C Order*").[1]

3. In approving Duquesne Light's EE&C Plan, the Commission established a process for the Company to follow to request modifications to its approved EE&C Plan.

4. On May 9, 2011, Duquesne Light filed a Petition for Approval of Changes to its Energy Efficiency and Conservation and Demand Response Plan ("Petition"), requesting certain modifications to its currently effective EE&C Plan which require Commission approval.

5. On May 19, 2011, the OCA filed an Answer to Duquesne Light's Petition.

6. On May 19, 2011, an Answer was filed by DII to Duquesne Light's Petition.

7. On May 25, 2011, Duquesne Light filed a response to the answers of DII and OCA. In addition, on May 25, 2011, Comverge, Inc. filed a Notice of Intervention.

8. Duquesne Light filed an Answer to Comverge's intervention on June 3, 2011.

9. By Order entered on June 30, 2011, the Commission referred Duquesne Light's Petition to the Office of Administrative Law Judge for expedited evidentiary hearings. The Commission also granted Comverge's Petition to Intervene.

10. A Prehearing Conference was scheduled for July 28, 2011. Prior to the Prehearing Conference, the parties agreed to a procedural schedule. Prehearing memoranda were

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[1] The EE&C Plan was further revised by *Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093217 (Order Entered January 28, 2011).

filed by Duquesne Light, OCA, OSBA, DII, and Comverge wherein the parties identified potential issues and witnesses.

11. The Prehearing Conference was held as scheduled on July 28, 2011. At the Prehearing Conference, ALJ Corbett established the litigation schedule.

12. Pursuant to the established litigation schedule, Duquesne Light served direct testimony on August 12, 2011.

13. The parties were involved in a number of discussions over the course of this modification proceeding. As a result of those discussions, Duquesne Light, OCA, DII, and Comverge have reached a settlement of all issues in this proceeding prior to the date scheduled for evidentiary hearings.[2]

II. STATEMENT IN SUPPORT

14. The Commission has a strong policy favoring settlements. As set forth in the PUC's regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation." 52 Pa. Code § 69.391; *see also* 52 Pa. Code § 5.231. Consistent with the Commission's Policy, the Joint Petitioners engaged in several negotiations to resolve the issues raised by various parties. These ongoing discussions produced the foregoing Settlement.

15. The Joint Petitioners agree that approval of the proposed Settlement is overwhelmingly in the best interest of the parties involved.

16. The Joint Petition is in the public interest for the following reasons:

a. As a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this proceeding will be less than they would have been if the proceeding had been fully litigated.

[2] The Office of Small Business Advocate ("OSBA"), an intervenor in this proceeding, has indicated that it does not object to the Settlement.

b. Uncertainties regarding further expenses associated with possible appeals from the Final Order of the Commission are avoided as a result of the Joint Petition.

c. The Joint Petition reflects compromises on all sides presented without prejudice to any position any Joint Petitioner may have advanced so far in this proceeding. Similarly, the Joint Petition is presented without prejudice to any position any party may advance in future proceedings involving the Company.

17. In addition, the Joint Petition specifically satisfies the concerns of DII by providing that Duquesne will accept approximately 20 MW of demand reductions from Large Commercial and Industrial ("Large C&I") Customers or Large C&I customers' PJM curtailment service providers ("CSPs") directly, rather than requiring that all demand reductions be administered by Duquesne Light's Curtailable Load Program CSP, provided that such Large C&I customer demand reductions are needed to meet the goals of the EE&C Plan and are more cost effective than what the Company's Curtailable Load Program CSP can provide (*see* Settlement Paragraph 17).

18. The Joint Petition also satisfies the concerns of DII by providing for a lower cost responsibility for Large C&I customers compared to the original Petition, and by removing the Petition's proposal to shift cost responsibility from other classes to Large C&I customers. Specifically, the Petition proposed increasing the cost responsibility of Large C&I customers by shifting $892,000 of funds from the Small/Midsized C&I DR Air Conditioning Cycling Program to the Large C&I Demand Response Program, in order to achieve an additional 20 MW of Large C&I demand reductions. Petition at 6. Rather than shifting cost responsibility from other classes to Large C&I customers, the Settlement provides that funds for the additional 20 MW of demand reductions will be shifted from Large C&I energy efficiency programs (*see* Settlement Paragraph 18).

19. DII supports the Joint Petition because it is in the public interest; however, in the event that the Joint Petition is rejected by the ALJs or the Commission, DII will resume its litigation position, which differs from the terms of the Joint Petition.

20. As set forth above, DII submits that the Settlement is in the public interest and adheres to the Commission policies promoting negotiated settlements. The Settlement was achieved after numerous settlement discussions. While Joint Petitioners have invested time and resources in the negotiation of the Joint Petition, this process has allowed the parties, and the Commission, to avoid expending the substantial resources that would have been required to fully litigate this proceeding while still reaching a just, reasonable, and non-discriminatory result. Joint Petitioners have thus reached an amicable resolution to this dispute as embodied in the Settlement. Approval of the Settlement will permit the Commission and Joint Petitioners to avoid incurring the additional time, expense, and uncertainty of further current litigation of a number of major issues in this proceeding. *See* 52 Pa. Code § 69.391.

III. CONCLUSION

WHEREFORE, the Duquesne Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission approve the Joint Petition for Settlement submitted in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By__________________________

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Dated: August 26, 2011

Appendix D

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation And Demand Response Plan (Petition for Approval of Modifications to its Demand Programs)	:	**DOCKET NO. M-2009-2093217**

COMVERGE, INC. STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT

TO THE HONORABLE JOHN H. CORBETT, JR., ADMINISTRATIVE LAW JUDGE:

Comverge Inc. ("Comverge")[1], by and through its Attorney, submits that the terms of the foregoing Joint Petition for Settlement ("Joint Petition") are in the public interest and represent a fair, just, reasonable and equitable balance of the interests of Duquesne Light Company ("DLC" or "Company") and its customers. After settlement discussions, Comverge, DLC, the Office of Consumer Advocate ("OCA") and the Duquesne Industrial Intervenors ("DII") have agreed upon the terms embodied in the foregoing Joint Petition.

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[1] Comverge is a demand response provider providing direct load control devices and services through PECO and PPL Act 129 programs. In addition, Comverge provides demand response aggregation of megawatts in the PJM open market. Moreover, Comverge, through its wholly owned subsidiary Enerwise Global Technologies, is a registered Curtailment Service Provider in the PJM market.

I. BACKGROUND

Comverge submits that the foregoing Joint Petition is in the public interest for the following reasons:

1. On June 30, 2009, DLC filed its Energy Efficiency and Conservation Plan ("EE&C Plan") with the Commission pursuant to Act 129 and related Commission orders. The DLC EE&C Plan proceeding was docketed at M-2009-2093217. The Commission approved DLC's EE&C Plan, with modifications, on October 27, 2009 at *Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan,* Docket No. M-2009-2093217 (entered October 27, 2009) (*"EE&C Order").*[2]

2. On May 9, 2011, DLC filed a Petition to Modify its Energy Efficiency and Conservation Plan at the instant docket number. DLC proposed to make changes to the current Plan, including a proposal to withdraw funding from demand response ("DR") programs for residential and small/medium commercial and industrial ("C&I") customers. In addition to other proposed modifications to its Plan, DLC proposed to re-allocate funds totaling $2,928,070 from the residential and small/medium DR programs to other energy efficiency programs run by DLC.

[2] The EE&C Plan was further revised by the Commission at Docket No. M-209-2093217 (entered January 28, 2011).

3. Comverge filed a Petition to Intervene in this proceeding on May 25, 2011. By Order entered June 30, 2011, the Commission approved Comverge's Petition to Intervene and ordered expedited evidentiary hearings (and the issuance of a Recommended Decision) to determine the appropriateness of DLC's request for modifications to its EE&C and Demand Response Plan. A telephonic Prehearing Conference was held on July 28, 2011 and an evidentiary hearing schedule was adopted.

4. Settlement discussions resulted in the foregoing Joint Petition.

II. SETTLEMENT TERMS

5. The specific details of the Settlement terms are provided in Paragraphs 15 through 21 of the Joint Petition. However, Comverge initially observes that the settlement enhances DLC's Plan by ensuring that previously spent dollars are not stranded and by tailoring the dollars spent to the level of interest already demonstrated by DLC customers.

III. PUBLIC INTEREST

6. Comverge submits that the foregoing Joint Petition is in the public interest for the following reasons:

(a). The Joint Petition ensures that DLC's DR programs will be funded at a level that is consistent with the interest demonstrated by DLC customers.

(b). As a result of this settlement, all customers who have previously expressed an interest in pursuing a demand response option and were promised compensation for their participation in the program will be able to participate in the program and receive the compensation for which they registered.

(c). The Joint Petition discontinues expensive and unnecessary rate litigation and administrative burden.

7. The foregoing Joint Petition addresses and adjusts all substantial issues that are the subject of dispute. It appears unlikely that full litigation of these matters would result in Comverge obtaining a superior outcome.

8. Comverge supports the foregoing Joint Petition because it is in the public interest. However, in the event this matter proceeds to full litigation, Comverge is prepared to take litigation positions that may differ from the terms of the proposed Settlement.

Respectfully submitted,

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Dated: August 26, 2011