**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :

for Approval of its Act 129 Phase II : M-2012-2334399

Energy Efficiency and Conservation Plan :

**ORDER CERTIFYING RECORD TO THE COMMISSION**

HISTORY OF THE PROCEEDING

On August 3, 2012, the Commission entered an Implementation Order with respect to the *Energy Efficiency and Conservation Program* at Docket Nos. M-2012-2289411 and M-2008-2069887 (*Implementation Order*). In the *Implementation Order*, the Commission stated that tentative consumption reduction targets would become final for any electric distribution company (EDC) that did not petition the Commission for an evidentiary hearing by August 20, 2012. Duquesne Light Company (Duquesne or Company) requested an evidentiary hearing and prepared its Phase II Energy Efficiency and Conservation Program in compliance with the Commission’s directive in the *Implementation Order*.

On November 1, 2012, the Commission issued a Secretarial Letter notifying

EDCs that it would accept Phase II Energy Efficiency and Conservation (EE&C) plans on either November 1, 2012 or November 15, 2012 due to the impact of Hurricane Sandy and the need for EDC personnel to focus on storm response duties.

On November 15, 2012, Duquesne filed a Petition for Approval of the Company's Phase II Energy Efficiency and Conservation Plan (Phase II Plan or Plan). Duquesne asserted that the Phase II Plan is in the public interest and is intended to reduce energy consumption in compliance with the requirements of Act 129 of 2008, 66 Pa.C.S. § 2806.1 (Act 129 or the Act) and the Commission's *Implementation Order*. In sum, Duquesne asked that the Commission issue an Order approving Duquesne's Phase II EE&C Plan and finding that the Plan satisfies the requirements of 66 Pa.C.S. § 2806.1(b)(1) and the Phase II *Implementation Order* by March 14, 2013.

On November 28, 2012, a standard form Prehearing Conference Order was issued in this case.

On November 29, 2012, a Hearing Notice was issued in this case.

On December 5, 2012, the Office of Small Business Advocate (OSBA) filed a Notice of Intent to participate in this proceeding and a Public Statement.

On December 6, 2012, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Community Action Association of Pennsylvania (CAAP) each filed a Petition to Intervene in this case.

On December 6, 2012, the Office of Consumer Advocate (OCA) filed a Notice of Intent to participate in this proceeding and a Public Statement.

On December 7, 2012, Citizen Power (Citizen) and the Duquesne Industrial Intervenors (DII) each filed a Petition to Intervene in this case.

A Prehearing Conference was held on Monday, December 10, 2012. That hearing was convened to discuss procedural issues relative to the Commission’s *Implementation Order*, to determine the further course of this proceeding, and to rule on the various Petitions to Intervene submitted up to that date.

The Prehearing Conference was presided over by the undersigned and was attended by counsel for: Duquesne, the OCA, the OSBA, CAUSE-PA, CAAP, Citizen and DII.

The parties discussed the time constraints imposed by the directory language of the *Implementation Order* and the possible due process issues related thereto. Given that the Notice of this proceeding was not published in the *Pennsylvania Bulletin* until December 1, 2012, with a twenty day comment/intervention period thereafter and the necessity of an evidentiary hearing by January 18, 2013, Duquesne and the parties very generously indicated that they would afford flexibility to future intervenors in terms of discovery. Also discussed was the possibility of a public input hearing, but ultimately a public input hearing was not requested. There were no objections to the Petitions to Intervene filed up to the date of the Prehearing Conference, and they were granted. I also made it clear that the record that I would certify to the Commission would include sworn testimony but not comments. N.T. at 12. A 20 page transcript of the Prehearing Conference was filed by the court reporter on December 13, 2012.

On December 12, 2012, a Second Prehearing Order was issued memorializing agreements and rulings from the December 10, 2012 Prehearing Conference.

On December 18, 2012, a Third Prehearing Order was issued granting the Motion for a Protective Order filed by Duquesne on December 13, 2012.

On December 21, 2012, Comverge, Inc. (Comverge) filed a Petition to Intervene in this case.

On January 3, 2013, a Corrected Hearing Notice was issued in this case setting January 18, 2013, as the date for the evidentiary hearing in this case.

On January 9, 2013, I issued the Fourth Prehearing Order in this case explaining my opinion expressed at the Prehearing Conference that “comments” have no place in the evidentiary record in this case, and concluding that I would only consider including “comments” in the certified record if they were introduced at hearing by a party to the proceeding with an authenticating witness made available for cross-examination.

On January 14, 2013, a Fifth Prehearing Order was issued in this case granting the Petition to Intervene of Comverge without objection.

On January 18, 2013, a hearing was held at the office of the Commission in Harrisburg, Pennsylvania. The hearing was attended by Duquesne, the OCA, the OSBA, DII, CAAP, CAUSE-PA, Citizen, and Comverge. The parties moved into evidence the testimony of their respective witnesses and supporting exhibits and conducted limited cross-examination. At the hearing, counsel for Duquesne provided a copy of an unexecuted draft Partial Settlement Agreement that several of the parties had agreed to prior to the hearing. Counsel maintained that the Partial Settlement Agreement resolves all but one of the outstanding issues in this case. A 31 page transcript was filed by the court reporter on January 22, 2013.

On January 18, 2013, a post-hearing Order was issued setting January 28, 2013 as the date for filing of the executed Partial Settlement Agreement and supporting statements. The Order also noted that on January 17, 2013, as a result of the anticipated Partial Settlement, Comverge withdrew its Petition for Admission *Nunc Pro Tunc* of the Direct Testimony of Raymond Berkebile.

On January 28, 2013, a Joint Petition for Partial Settlement and related Appendices containing supporting statements was filed by Duquesne, the OCA, CAUSE-PA, CAAP, Citizen and Comverge.

Main Briefs were filed on January 28, 2013, by Duquesne and DII.

Reply Briefs were filed on February 7, 2013, by Duquesne, DII, the OCA, the OSBA and Citizen.

On February 7, 2013, Duquesne filed its Reply Comments and its Revised Phase II EE&C Plan.

THERFORE:

IT IS ORDERED THAT THE FOLLOWING DOCUMENTS COMPRISE THE EVIDENTIARY RECORD IN THIS CASE:

1. Duquesne Light Company’s Petition for Approval of the Company's Phase II Energy Efficiency and Conservation Plan filed November 15, 2012, at Docket No. M-2012-2334399, and Duquesne’s Act 129 Phase II Energy Efficiency and Conservation Plan, Volumes I and II (also listed in ¶19, below).

2. The Prehearing Conference Order issued November 28, 2012.

3. The Hearing Notice issued on November 29, 2012.

4. The December 5, 2012 Notice of Intent to participate in this proceeding and Public Statement of the Office of Small Business Advocate.

5. The December 6, 2012 Petition to Intervene of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania.

6. The December 6, 2012 Petition to Intervene of the Community Action Association of Pennsylvania.

7. The December 6, 2012 Notice of Intent to participate in this proceeding and Public Statement of the Office of Consumer Advocate.

8. The December 7, 2012 Petition to Intervene of the Duquesne Industrial Intervenors.

9. The December 7, 2012 Petition to Intervene of Citizen Power.

10. The transcript of the Prehearing Conference held December 10, 2012, consisting of pages 1-20.

11. The Second Prehearing Order dated December 12, 2012.

12. The Third Prehearing Order dated December 18, 2012, approving the Protective Order requested by Duquesne.

13. The December 21, 2012 Petition to Intervene of Comverge, Inc.

14. The Corrected Initial Hearing Notice issued January 3, 2013.

15. The Fourth Prehearing Order issued January 9, 2013.

16. The Fifth Prehearing Order dated January 14, 2013, granting the intervention of Comverge.

17. The transcript of the evidentiary hearing held January 18, 2013, consisting of pages 21 through 52.

18. The Post-hearing Order issued January 18, 2013.

19. The submissions of Duquesne Light Company, entitled as follows:

Duquesne Light Company Statement No. 1, consisting of the Phase II EE&C Plan, Volume I, with the Direct Testimony of David Defide and attachments;

Duquesne Light Company Statement No. 1R Rebuttal Testimony of David Defide;

Duquesne Light Company Statement No. 2, consisting of the Phase II EE&C Plan, Volume II, with the Direct Testimony of William V. Pfrommer and attachments.

20. The submission of the Office of Consumer Advocate, OCA Statement 1, the Direct Testimony of David G. Hill.

21. The submission of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, CAUSE-PA Statement 1, the Direct Testimony of Thu Tran.

22. The submission of the Community Action Association of Pennsylvania, CAAP Statement No. 1, the Direct Testimony of Susan Moore-Wychulis.

23. The hearing exhibit of the Duquesne Industrial Intervenors marked and received into the record as DII Cross-Examination Exhibit No. 1.

24. The Joint Petition for Partial Settlement and Appendices filed on January 28, 2013, by Duquesne Light Company, the Office of Consumer Advocate, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Community Action Association of Pennsylvania, Citizen Power and Comverge, Inc.

25. The Main Briefs filed on January 28, 2013, by Duquesne Light Company and the Duquesne Industrial Intervenors.

26. The Reply Briefs filed on February 7, 2013, by: Duquesne Light Company, the Duquesne Industrial Intervenors, the Office of Consumer Advocate, the Office of Small Business Advocate and Citizen Power.

27. The Reply Comments filed on February 7, 2013, by Duquesne Light Company.

28. The Revised Phase II Energy Efficiency and Conservation Plan filed on February 13, 2013, by Duquesne Light Company.

Dated: February 14, 2013 /s/

Dennis J. Buckley

Administrative Law Judge

**M-2012-2334399- PETITION OF DUQUESNE LIGHT COMPANY FOR APPROVAL OF ITS ACT 129 PHASE II ENERGY EFFICIENCY AND CONSERVATION PLAN**

***REVISED 12/31/12***

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