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May 31, 2018

VIA ELECTRONIC FILING AND EMAIL

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

**Re: Duquesne Light Company – Distribution Rate Case
Docket No. – R- 2018-3000124**

Dear Secretary Chiavetta:

Enclosed for filing, please find Duquesne Light Company's Motion for Protective Order in the above referenced proceeding. Should you have any questions, please do not hesitate to contact me.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'Tishekia Williams', is written over the typed name below.

Tishekia E. Williams

Enclosures

cc: Administrative Law Judge Katrina Dunderdale
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have 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).

VIA E-MAIL AND FIRST CLASS MAIL

Gina L. Miller, Esquire
John M. Coogan, Esquire
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PO Box 3265
Harrisburg, PA 17105-3265

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David T. Evrard, Esquire
Aron J. Beatty, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Sharon Webb, Esquire
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101

Scott J. Rubin, Esquire
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333 Oak Lane
Bloomsburg, PA 17815
*Counsel for International Brotherhood
Of Electrical Workers, Local 29*

Mark C. Szybist, Esquire
1152 15th Street NW, Suite 300
Washington, DC 20005
Counsel for NRDC

Patrick Cicero, Esquire
Kadeem G. Morris, Esquire
Elizabeth R. Marx, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
*Counsel for Coalition for Affordable Utility
Services and Energy Efficiency in PA
(CAUSE-PA)*

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
*Counsel for Community Action
Association of PA (CAAP)*

David P. Zambito, Esquire
Jonathan P. Nase, Esquire
Cozen O'Connor
17 North 2nd Street, 14th Floor
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*Counsel for Peoples Natural Gas
Company, LLC*

William H. Roberts, II, Esquire
PNG Companies, LLC
375 North Shore Drive
Pittsburgh, PA 15212
*Counsel for Peoples Natural Gas
Company, LLC*

Anthony C. DeCustatis, Esquire
Morgan, Lewis & Bockius
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Philadelphia, PA 19103-2921
Counsel for Duquesne Light Company

Renardo L. Hicks, Esquire
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Harrisburg, PA 17101
Counsel for ChargePoint, Inc.

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Excel Consulting
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Consulting for OSBA

Pamela C. Polacek, Esquire
Matthew L. Garber, Esquire
McNees Wallace & Nurick LLC
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*Counsel for Duquesne Industrial
Intervenors*

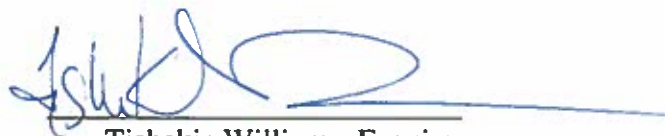
Derrick Price Williamson, Esquire
Barry A. Naum, Esquire
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
*Counsel for Wal-Mart Store East, LP and
Sam's East, Inc.*

Jason Dolby
409 Anawanda Avenue
Pittsburgh, PA 15228

BY EMAIL ONLY:

Joseph Otis Minott, Esquire
Logan Welde, Esquire
Clean Air Council
135 S. 19th Street, Suite 300
Philadelphia, PA 19103
Counsel for Clean Air Council

Date: May 31, 2018



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. R-2018-3000124
Office of Consumer Advocate	:	Docket No. C-2018-3001029
Peoples Natural Gas Company LLC	:	Docket No. C-2018-3001152
Jason Dolby	:	Docket No. C-2018-3001074
James Fedell	:	Docket No. C-2018-3001473
Office of Small Business Advocate	:	Docket No. C-2018-3001566
Duquesne Industrial Intervenors	:	Docket No. C-2018-3001713
	:	
v.	:	
	:	
Duquesne Light Company	:	

**MOTION OF DUQUESNE LIGHT COMPANY
FOR A PROTECTIVE ORDER**

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

Duquesne Light Company (“Duquesne Light” or the “Company”) hereby requests that the attached Protective Order be entered in the above-captioned proceeding pursuant to the provisions of 52 Pa. Code § 5.365(a). In support thereof, Duquesne Light states as follows:

1. This proceeding was initiated on March 28, 2018, when Duquesne Light filed with the Pennsylvania Public Utility Commission (“Commission”) Supplement No. 174 to Duquesne Light’s Tariff – Electric Pa. P.U.C. No. 24 (“Supplement No. 174”). Supplement 174 was issued to be effective May 29, 2018, and proposed changes to Duquesne Light’s base retail distribution rates designed to produce an increase in revenues of approximately \$133.8 million, of which approximately \$52.2 million of revenues are currently recovered through surcharges, based upon data for a fully projected future test year ending December 31, 2019. The filing was made in compliance with the Commission’s regulations and contains all supporting data and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase.

2. On March 30, 2018, the Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance.

3. On April 6, 2018, the Office of Consumer Advocate (“OCA”) filed a Notice of Appearance and Formal Complaint at Docket No. C-2018-3001029.

4. On April 9, 2018, a Petition to Intervene was filed by the International Brotherhood of Electrical Workers, Local 29 (“IBEW”). IBEW also filed a Prehearing Memorandum on the same date.

5. On April 9, 2018, a Petition to Intervene was filed by the Community Action Association of Pennsylvania (“CAAP”).

6. On April 10, 2018, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a Petition to Intervene and Answer.

7. On April 10, 2018, Peoples Natural Gas Company, LLC filed a Formal complaint at Docket No. C-2018-3001152 and also filed a Prehearing Memorandum.

8. On April 19, 2018, the Commission opened an investigation of Duquesne Light’s proposed rate increase and suspended the effective date of that increase by operation of law from until December 29, 2018, unless permitted by Commission Order to become effective at an earlier date.

9. Also on April 26, 2018, Administrative Law Katrina L. Dunderdale (“ALJ”) issued the Prehearing Conference Order, scheduling a telephonic prehearing conference in the above-captioned matter at 10:00 a.m. Thursday, May 3, 2018.

10. On May 1, 2018, the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance and a Formal Complaint at Docket No. C-2018-3001566.

11. On May 2, 2018, the Natural Resources Defense Council (“NRDC”) filed a Petition to Intervene and a Prehearing Memorandum.

12. On May 3, 2018, Clean Air Council filed a Petition to Intervene and a Prehearing Memorandum.

13. On May 3, 2018, a Prehearing Conference was held, as scheduled.

14. On May 8, 2018, the Duquesne Industrial Intervenors (“DII”) filed a Formal Complaint at Docket No. C-2018-3001713.

15. On May 8, 2018, the ALJ issued a Scheduling Order.

16. On May 15, 2018, a Petition to Intervene was filed by Wal-Mart Stores East, LP and Sam's East, Inc.,

17. Duquesne Light has also been served with Formal Complaints by the following customers: Jason Dolby, Docket No. C-2018-3001074; James Fedell, Docket No. C-2018-3001473.

18. The parties are engaging in the discovery process in this proceeding.

19. Proprietary Information within the definition of 52 Pa. Code § 5.365 has been requested during the course of this proceeding, which justifies the issuance of a Protective Order. Parties have sought information that is customarily treated as sensitive, proprietary, or confidential, including but not limited to, information regarding critical infrastructure, and other highly sensitive information. Treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of such information would not be in the public interest. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365 and in Administrative Law Judge or Commission Orders granting relief pursuant to said regulation.

20. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be substantial and outweighs the public’s interest in having access to the confidential information. In applying

this standard, relevant factors to be considered include: The extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the party and the party's competitors. 52 Pa. Code §§ 5.365(a)(1)-(3).

21. The attached proposed Protective Order provides for the protection of "CONFIDENTIAL" information. "CONFIDENTIAL" information is defined in Paragraph 3 of the attached proposed Protective Order as "those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury." The attached Protective Order also provides special restrictions for "CONFIDENTIAL" information that is of such a commercially sensitive nature or of such a private, personal nature that the producing Party is able to justify a heightened level of confidential protection with respect to those materials.

22. Paragraph 17 of the attached proposed Protective Order protects against overly broad designations of protected information by giving all Parties the right to question or challenge the confidential or proprietary nature of the "CONFIDENTIAL" information.

23. Limitation on the disclosure of "CONFIDENTIAL" information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

24. Duquesne Light notes that it has provided an advance copy of this Motion and Protective Order to the active parties (the statutory parties, non-customer complainants and interveners) in this proceeding, and other than Peoples Natural Gas, LLC, none of these parties have objected to the Motion or Protective Order.

25. The attached proposed Protective Order will protect the confidential information while allowing the Parties to use such information for purposes of the instant litigation.

Respectfully Submitted,



Tishekia E. Williams (ID # 208997)
Michael Zimmerman (ID # 323715)
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Date: May 31, 2018

Attorneys for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. R-2018-
Office of Consumer Advocate	:	3000124
Peoples Natural Gas Company LLC	:	Docket No. C-2018-
Jason Dolby	:	3001029
James Fedell	:	Docket No. C-2018-
Office of Small Business Advocate	:	3001152
Duquesne Industrial Intervenors	:	Docket No. C-2018-
	:	3001074
v.	:	Docket No. C-2018-
	:	3001473
Duquesne Light Company	:	Docket No. C-2018-
	:	3001566
	:	Docket No. C-2018-
	:	3001713

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by Duquesne Light Company on _____;

IT IS ORDERED THAT:

1. The Protective Order is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which have been or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The materials or information subject to this Protective Order are all correspondence, documents, data, information, studies, methodologies and other materials which are believed by the producing Party to be of a proprietary or confidential nature, and which are so designated by being stamped "CONFIDENTIAL" (hereinafter collectively referred to as

“Proprietary Information”). When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be appropriately designated as such for the record.

3. This Protective Order applies to the following materials:

(a) The producing Party may designate as “CONFIDENTIAL” those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury;

(b) To the extent that it is consistent with 52 Pa. Code § 5.365(e), the producing Party may also seek special restrictions of those materials that are of such a commercially sensitive nature or of such a private, personal nature that the producing Party is able to justify a heightened level of confidential protection with respect to those materials. Each of the Parties shall endeavor to limit its use of special restrictions.

4. Proprietary Information shall be made available to counsel for the nonproducing Party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding and not in any other proceedings or matters. To the extent required for participation in this proceeding, counsel for a Party may afford access to Proprietary Information subject to the conditions set forth in this Protective Order.

5. Proprietary Information produced in this proceeding shall be made available to the Commission and its Staff. Proprietary Information that is filed or otherwise provided to the Commission and placed in the Commission’s report folders, shall not be subject to public disclosure in accordance with routine Commission procedures. To the extent that Proprietary

Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Protected Information shall be permitted only in accordance with this Protective Order.

6. Proprietary Information shall be made available to a Reviewing Representative in this proceeding pursuant to the following procedures:

(a) Information deemed as "CONFIDENTIAL", shall be made available to a "Reviewing Representative" who is a person who has signed a Non-Disclosure Certificate and who is:

- (i) an attorney who has made an appearance in this proceeding for a Party;
- (ii) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph (i);
- (iii) an expert or an employee of an expert retained by a Party for the purpose of advising, preparing for or testifying in this proceeding;
- (iv) employees or other representatives of a Party appearing in this proceeding with significant responsibility for the docket.

(b) Parties may also restrict access to "CONFIDENTIAL" information and materials that are of such a commercially sensitive nature or of such a private, personal nature that the producing Party is able to justify a heightened level of confidential protection with respect to those materials. In such cases, this CONFIDENTIAL information would be available to a Reviewing Representative that has signed a Non-Disclosure Agreement and who is:

- (i) an attorney for a statutory advocate pursuant to 52 Pa. Code §1.8 or an outside counsel who has made an appearance in this proceeding for a Party;

- (ii) an attorney, paralegal, or other employee associated for purposes of this case with an attorney described in Paragraph (i);
- (iii) an outside expert or an employee of an outside expert retained by a Party for the purposes of advising, preparing for or testifying in this proceeding;
- (iv) a person designated as a Reviewing Representative pursuant to Paragraph 10.

If Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission's rules of Practice and Procedure, 52 Pa. Code §§ 5.362, 5.365(e), the producing Party may, by subsequent motion or objection, seek further protection with respect to "CONFIDENTIAL" material, including but not limited to, total prohibition of disclosure or limitation of disclosure only to particular Parties.

7. Proprietary Information shall not be made available to a "Restricted Person." For the purpose of this Protective Order, "Restricted Person" shall mean: (a) an officer, director, stockholder, partner, owner or employee of any competitor of a Party or an employee of such an entity if the employee's primary duties involve the development, marketing or pricing of the competitor's products or services; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of a Party (including any association of competitors of a Party) or an employee of such an entity if the employee's primary duties involve the development, marketing or pricing of the competitor's products or services; (c) an officer, director, stockholder, owner or employee of a competitor of a Party's customer if the Proprietary Information concerns a specific, identifiable customer of a Party; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a Party's customer if the Proprietary Information concerns a specific, identifiable customer of a Party; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary

Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 (excluding mutual funds) or constituting more than 1% interest in a business establishes a significant motive for violation.

8. If an expert for a Party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (1) identify for the Parties each Restricted Person and each expert or consultant; (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the Parties or their customers. The producing Party retains the right to challenge the adequacy of the written assurances that the nonproducing Party or its customers' interests will not be jeopardized. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. A qualified "Reviewing Representative" for CONFIDENTIAL materials subject to special restrictions may review and discuss the "CONFIDENTIAL" material that has been so restricted with his or her client or with the entity with which he or she is employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with or permit the client or entity to review the "CONFIDENTIAL" material that has been so restricted, provided, however, that counsel for the Bureau of Investigation and Enforcement ("I&E"), Office of Consumer Advocate and Office of Small Business Advocate may share Proprietary Information with the I&E Deputy Chief Prosecutor, I&E Director, Consumer Advocate and Small Business Advocate, respectively, without obtaining a Non-Disclosure certificate from these individuals, provided, however, that these individuals otherwise abide by the terms of the Protective Order.

10. Proprietary Information shall be treated by the nonproducing Party and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 12(a). Information deemed Proprietary Information shall not be used except as necessary for the conduct of this proceeding, nor shall it be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. For I&E, the I&E Prosecutor may afford access to Proprietary Information made available by Duquesne Light only to I&E's assigned and identified internal expert(s) who are full-time I&E employees and therefore subject to the terms of this Protective Order by virtue of the signature of the I&E Prosecutor affixed to his executed Non-Disclosure Certificate. Prior to making the provided Proprietary Information available to its full-time employed expert as provided above, the I&E Prosecutor shall notify said internal expert of the existence of the Protective Order and shall provide a copy of it to that expert with an admonition that he or she is bound by its provisions for the duration of the proceeding. Said I&E Prosecutor is responsible for ensuring that each and every individual to whom he or she provides Proprietary Information complies with all terms and conditions of the Protective Order.

11. Reviewing Representatives may not use information contained in any Proprietary Information obtained through this proceeding to give any Party or any competitor of any Party a commercial advantage. In the event that the nonproducing Party wishes to designate as a Reviewing Representative a person not described in Paragraph 6 above, that Party shall seek agreement from the Party producing the Proprietary Information. If an agreement is reached, that person shall be a Reviewing Representative pursuant to Paragraph 6 above with respect to those

materials. If no agreement is reached, the nonproducing Party shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate set forth in Appendix A hereto, provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order.

13. A producing Party shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "CONFIDENTIAL" or otherwise noting that the materials are subject to special restrictions. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the producing Party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served upon the nonproducing Party hereto only in an envelope separate from the nonproprietary materials, and the envelope shall be conspicuously marked "CONFIDENTIAL"

14. The nonproducing Party will consider and treat the Proprietary Information as within the exemptions from disclosure provided in Section 335(d) of the Public Utility Code, 66 Pa. C.S. § 335(d), and is within the definition of “confidential proprietary information” in the Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, until such time as the information is found to be non-proprietary. In the event that any person or entity seeks to compel the disclosure of Proprietary Information, the nonproducing Party shall promptly notify the producing Party in order to provide the producing Party an opportunity to oppose or limit such disclosure.

15. Any public reference to Proprietary Information by a Party or its Reviewing Representative shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

16. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including references thereto as mentioned in Paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the Parties or pursuant to order of the Administrative Law Judge, the Commission or appellate court.

17. The nonproducing Party shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and any special restrictions on the review and discussion of such information with a Restricted Person. If a nonproducing Party

challenges the designation of a document or information as proprietary, the Party providing the information retains the burden of demonstrating that the designation is appropriate.

18. Each Party shall retain the right to question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper ground; to refuse to produce Proprietary Information pending the adjudication of the objection; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order.

19. Within thirty (30) days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty (30) days after appeals are finally decided, the nonproducing Party, upon request, shall either destroy or return to the producing Party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that the nonproducing Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the producing Party, the nonproducing Party shall certify in writing to the producing Party that the Proprietary Information has been destroyed.

Dated: _____

Administrative Law Judge
Katrina L. Dunderdale

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. R-2018-3000124
Office of Consumer Advocate	:	Docket No. C-2018-3001029
Peoples Natural Gas Company LLC	:	Docket No. C-2018-3001152
Jason Dolby	:	Docket No. C-2018-3001074
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Duquesne Industrial Intervenors	:	Docket No. C-2018-3001713
	:	
v.	:	
	:	
Duquesne Light Company	:	

NON-DISCLOSURE CERTIFICATE

TO WHOM IT MAY CONCERN:

The undersigned is a Reviewing Representative of _____ a Party to this proceeding (“Party”), and is not, or has no knowledge or basis for believing that he/she is a “Restricted Person” as that term is defined in Paragraph 7, page 4 of the Protective Order executed on behalf of the Party with regard to the above-referenced proceeding. The undersigned has read and understands the Protective Order in the above-referenced proceeding, which Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____