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May 31, 2012

VIA E-FILING & FIRST CLASS MAIL

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

Re: Implementation of Act 11 of 2012
Docket No. M-2012-2293611

Dear Secretary Chiavetta:

Enclosed for filing are the Comments of Duquesne Light Company in response to the Commission's Tentative Order in the above proceeding.

Sincerely yours,

A handwritten signature in cursive script that reads 'Krycia Kubiak'.

Krycia Kubiak
Assistant General Counsel

Enclosure

c: David Screven – via email
Louise Fink Smith – via email
Erin Laudenslager – via email
Act 11 Resource Account – via email

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Act 11 of 2012 : Docket No. M-2012-2293611
:

**COMMENTS OF DUQUESNE LIGHT COMPANY TO
TENTATIVE IMPLEMENTATION ORDER**

I. INTRODUCTION

On May 11, 2012, the Pennsylvania Public Utility Commission (“Commission”) entered its Tentative Implementation Order (“Tentative Order”) with regard to Act 11 of 2012 (“Act 11”). The Commission requested comments to the Tentative Order be filed by May 31, 2012. These Comments are filed by Duquesne Light Company (“Duquesne Light”).

Duquesne Light would like to express its appreciation of the Staff’s efforts to implement these regulations expeditiously. Furthermore, Duquesne Light supports the conclusions in the Tentative Order. Duquesne Light’s Comments are submitted to seek further clarification of the Tentative Order provisions for application in future filings to implement the ratemaking procedures authorized by Act 11.

II. COMMENTS

A. CHAPTER 3 – GENERAL PROVISIONS

The Tentative Order addresses procedures to be used in a fully projected future test year and related changes to Section 315(e) of the Public Utility Code, 66 Pa.C.S. § 315(e). In the Tentative Order the Commission notes that “the strict statutory bar” has been removed to including in rates property that is not used and useful when rates become effective. The Commission is correct in interpreting the provisions in Section 315(e), which permit use of a fully projected test year, thereby removing the statutory bar. However, the Commission further states that it has the “discretion” and ““may permit’ facilities that are projected to be in service

during the fully projected test year to be included in rate base for ratemaking purposes.” Duquesne Light respectfully submits that “discretion” is not the appropriate standard for determining whether additions during the fully projected test year are to be included in rate base used to set rates. Instead, Duquesne Light recommends that the Commission conclude that the Commission has the “authority” to include additions projected to be in service in a fully projected test year in rate base and in rates and will do so based upon an evidentiary record that supports that the additions are necessary and appropriate to provide service to customers.

B. CHAPTER 13 – DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

1. Section 1352 – Long Term Infrastructure Plans

The Tentative Order provides explanations of the approach to and context of infrastructure improvement plans that must be filed by utilities and approved by the Commission to become eligible for application of the Distribution System Improvement Charge (“DSIC”). The Commission has provided interpretations of the statutory provisions of Section 1352 of Act 11.

Subsection (a)(1) of Section 1352 requires information concerning the types and age of eligible property. The Commission states that “this necessarily includes a review of all distribution plant, including its inventory, age, functionalities, reliability and performance.” Tentative Order, p. 8. Duquesne Light requests that the Commission clarify that it will be sufficient to identify the types of distribution plant by voltage level, the range of ages and average age of each type of plant by voltage level and the reliability of each type of plant by voltage level.

Section 1352(a)(2) requires a schedule for planned replacement of eligible property. The Tentative Order notes that this plan “must be long-term and forward looking, based upon a utility’s analysis of reliability performance indicators, and forecasts of future reliability

concerns.” Tentative Order, p. 8. However, the Tentative Order does not state the initial term of the plan. Duquesne Light recommends that the infrastructure plan be for a five year period, subject to the Commission’s annual review of the plan pursuant to Section 1356 (Asset Optimization Plan) and periodic review every five years pursuant to Section 1352(b)(1). Tentative Order, p. 14.

Section 1352(a)(3) requires identification of the location of the plant and Section 1352(a)(4) requires a reasonable estimate of the quantity of eligible property to be improved. Section 1352(a)(5) requires that projected annual expenditures be provided and be justified as cost effective. The Tentative Order provides no clarification of these requirements. Duquesne Light recommends that locations be identified for plant categories and annual estimates of replacements be based on such categories. The Commission should clarify that cost effectiveness requires replacement rates that are adequate to maintain reliability and quality of service. Duquesne Light also requests that the Commission specifically recognize that annual estimates of replacements of specific plant categories and total replacements are subject to change based upon system needs, priorities, reliability estimates, emergencies, regulatory requirements and available capital.

Finally, the Commission notes that it expects that the “plan will reflect and maintain an acceleration of infrastructure replacement over the historic level of capital improvement.” Tentative Order, p. 9. The Tentative Order recognizes that some utilities have taken substantial steps to increase capital investment and requires such companies to explain “how the DSIC will maintain or augment acceleration of infrastructure replacement and capital investment.” Tentative Order, p. 9. Duquesne Light requests that the Commission recognize that utilities that have made significant recent capital investments over a period of consecutive years may not need

to continue to do so at the same level in the future. Such companies' willingness to make capital investments without availability of the DSIC should not be a basis for denying such companies benefits of the use of the DSIC where investments are less than recent historic levels.

2. Section 1357 – Computation of DSIC Charge

Duquesne Light supports the model tariff which provides the procedures for calculation of the DSIC.

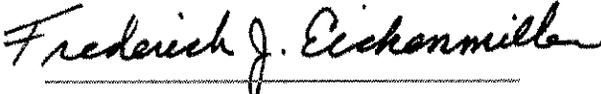
The Tentative Order provides an explanation that the Commission will determine the return on equity to be used in DSIC in quarterly earnings reports if the utility has not had a return on equity determination in a fully litigated base rate case within two years. Tentative Order, p. 14. Duquesne Light supports this approach and notes that is in accord with Section 1357(b)(3).

The Commission requests comments on whether a stipulated cost of equity in a base rate case for use in the DSIC could be used as a fully litigated return on equity pursuant to Section 1357(b)(2). Duquesne Light supports such conclusion. As further support, Duquesne Light notes that many base rate case settlements already provide that rates resulting from the settlement are to be considered to have the same force and effect as if the case had been fully litigated resulting in Commission made rates that are just and reasonable.

III. CONCLUSION

Duquesne Light appreciates the opportunity to provide comments with regard to the Tentative Implementation Order concerning Act 11 and requests that the Commission consider these comments and clarify the Tentative Implementation Order consistent with such comments.

Respectfully submitted,



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Date: May 31, 2012

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