

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held January 14, 2010

Commissioners Present:

James H. Cawley, Chairman
Tyrone J. Christy, Vice Chairman, Concurring in Result Only
Kim Pizzingrilli
Wayne E. Gardner
Robert F. Powelson

Petition of Duquesne Light Company for
Approval of its Energy Efficiency and
Conservation and Demand Response Plan,
Approval of its Recovery of its Costs through
a Reconcilable Adjustment Clause and
Approval of Matters Relating to the Energy
Efficiency and Conservation Plan

Docket No. M-2009-2093217

OPINION AND ORDER

BY THE COMMISSION:

I. Introduction

This matter arises from a prior Opinion and Order issued by the Pennsylvania Public Utility Commission (Commission) at Docket No. M-2009-2093217 (Order entered October 27, 2009) (*October 2009 Order*). In the *October 2009 Order*, we granted, in part, and denied, in part, the Petition of Duquesne Light Company (Duquesne or Company) for Approval of its Energy Efficiency and Conservation and Demand Response Plan (EE&C Plan or at times, Plan), Approval of its Recovery of its Costs

through a Reconcilable Adjustment Clause and Approval of Matter Relating to the Energy Efficiency and Conservation Plan. The basis for the instant Opinion and Order is to address, on our own motion, the effect of our *October 2009 Order* on the issue of allocation of administrative costs to Commercial and Industrial (C&I) customers.

II. History

A detailed procedural history of this proceeding was set forth in the *October 2009 Order*¹ and will not be reiterated here. Rather, we shall provide a brief summary of pertinent procedural history to place the matter before us in proper context.

Duquesne filed the Plan on June 30, 2009, requesting Commission approval as well as authorization to implement the proposed cost recovery mechanism.

The Parties to this proceeding are: the Office of Consumer Advocate (OCA), the Office of Trial Staff (OTS), the Office of Small Business Advocate (OSBA), the Department of Environmental Protection (DEP), Duquesne Industrial Intervenors (DII), Equitable Gas Company (Equitable), ClearChoice Energy (ClearChoice), Columbia Gas of Pennsylvania, Inc. (Columbia), Direct Energy Business LLC, (Direct Energy), the Pennsylvania Association of Community Organizations for Reform Now (ACORN), Field Diagnostic Services, Inc. (Field Diagnostics), The Peoples Natural Gas Company d/b/a Dominion Peoples (Dominion Peoples), EnerNOC, Inc. (EnerNOC), Constellation New Energy, Inc. (Constellation), the National Association of Energy Service Companies (NAESC), The E Cubed Company, LLC (E Cubed), Envinity, Keystone Energy Efficiency Alliance (Keystone), and Pa. Home Energy.

¹ See our *October 2009 Order* at 6-7.

As mentioned previously, the *October 2009 Order* approved the Plan, in part, and rejected it, in part. Among other things, the *October 2009 Order* directed Duquesne to file a revised Plan within sixty days. On November 12, 2009, the OSBA filed a Petition for Reconsideration (Petition). By Opinion and Order entered November 19, 2009, the Commission granted reconsideration pending review of, and consideration on, the merits of the Petition. Duquesne filed an Answer on November 23, 2009, and we thereafter disposed of the Petition by Opinion and Order entered on December 23, 2009 (*December 2009 Order*).

On November 9, 2009, Duquesne submitted a Compliance Filing calculating the surcharge rates as directed by the *October 2009 Order*. Our action herein is a result of our concern regarding one aspect of this compliance filing and should not be viewed as being dispositive in full of the Compliance Filing, which is still pending further review.

Furthermore, we note that Duquesne filed its Revised Plan on December 24, 2009, including a red-lined version to show all changes made to its original Plan in compliance with our *October 2009 Order*. Parties were permitted to file Comments to Duquesne's Revised Plan. Comments were submitted on or about January 8, 2010. Reply Comments were filed on or about January 19, 2010. We will address the merits of the Revised Plan and the comments thereto at a forthcoming Public Meeting.

III. Discussion

Section 703(g) of the Public Utility Code, 66 Pa. C.S. § 703(g), allows the Commission to amend any order, provided affected parties are given notice and an opportunity to be heard.

As mentioned above, the issue at hand is that of allocation of administrative costs to C&I customers. As required by our *Implementation Order*², in its EE&C Plan, Duquesne proposed energy efficiency and demand response programs for its customers on Rate Schedules GL, GLH, L and HVPS. For the energy efficiency programs, Duquesne divides its larger customers into “Large Commercial” and “Large Industrial” groups based on Standard Industrial Code (SIC) designations, and will tailor its marketing approach to various subgroups within each designation (Office Buildings, Health Care, Retail Stores/Restaurants, and Education for Large Commercial; Primary Metals, Chemicals, and Mixed for Large Industrial). The Large C&I groups have separate program budgets and separate cost recovery mechanisms. In Duquesne’s June 30, 2009 original Plan, Duquesne’s proposed rate design for both Large C&I groups included a customer charge and a demand (kW) charge based on the customer’s monthly billing demand. The administrative costs of each budget were to be collected through the customer charge, while the incentives that were to be used to induce customers to participate were to be collected through the demand charge.

² By Opinion and Order entered January 16, 2009, at Docket No. M-2008-2069887 (*Implementation Order*), the Commission: (1) established the standards that Electric Distribution Company (EDC) EE&C Plans must meet, and (2) provided guidance on the procedures to be followed for submittal, review and approval of all aspects of EDC EE&C Plans.

Duquesne supported the use of a blended rate design based on the vastly divergent usage characteristics for the customers that comprise its Large C&I classes.³ Specifically, Duquesne has approximately 900 customers on Rate Schedules GL, GLH, L and HVPS, with average annual usage ranging between 4,000 MWh and 400,000 MWh per customer. Duquesne's Rate Schedule HVPS consists of only three customers that collectively make up approximately 35% of the demand for the Large Industrial class. Duquesne Industrial Intervenors (DII) which consists of some of Duquesne's larger customers, supported the blended rate design as a fair balance between the larger and smaller customers in the Large C&I classes. No party in the proceeding objected to the use of a blended rate design containing a monthly customer charge and a demand charge for the Large C&I recovery mechanisms.

In our *October 2009 Order*, we modified Duquesne's proposed rate design for the recovery of EE&C Plan costs from Duquesne's Large C&I in two ways. First, we adopted the recommendation of DII whereby the customers' PJM Interconnection Peak Load Contributions (PLC) should be used for the demand charge, rather than the monthly billing demand. Second, we eliminated the monthly customer charge component, and determined that both the administrative costs and the incentive costs should be recovered on a demand basis. This was done in order to further incentivize industrial customers to participate in Duquesne's EE&C programs.

Based on a review of the customer data and other information submitted with Duquesne's November 9, 2009 Compliance Filing, it appears that our directive to require Duquesne to modify its Plan to use a demand based allocation rather than a blended rate design has resulted in substantial increases in the allocation of administrative costs to its largest customers. We note that while this is not surprising given the

³ Duquesne Statement No. 4, p. 9.

divergent usage characteristics of Duquesne's larger customers, it is clearly not a fair outcome reflecting proper cost causation, assignment and recovery.

As a result, we are of the opinion that it is best to rescind the modification that we made to Duquesne's customer charge and instead require Duquesne to restore the customer charge components of the Large Commercial and Large Industrial cost recovery mechanisms for the recovery of the administrative costs of the programs. The restoration of the original customer charge components as calculated by Duquesne in its filing will be commensurate with the effective date of the Compliance tariff, and Duquesne should implement an appropriate reconciliation mechanism to ensure that customers pay EE&C Plan costs consistent with the original rate design (as modified to use the PLC for the demand charge).

However, in order to afford the Parties an opportunity to be heard, Parties may file comments to this Opinion and Order no later than fifteen (15) days from the date of entry of this Opinion and Order; reply comments may be filed no later than ten (10) days thereafter. If no adverse comments are filed within fifteen (15) days from the date of entry of this Opinion and Order, then this Order shall become final without any further action by the Commission; **THEREFORE,**

IT IS ORDERED:

1. That, pursuant to 66 Pa. C.S. §703(g), we shall reconsider, on our own motion, the Opinion and Order entered at Docket No. M-2009-2093217 on October 27, 2009, consistent with this discussion contained in the body of this Opinion and Order.

2. That upon reconsideration of the Opinion and Order of October 27, 2009, it appears that Duquesne should restore the original customer charge components of the Large Commercial and Large Industrial cost recovery mechanisms for the recovery

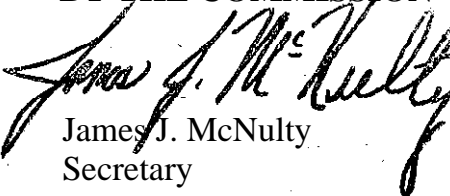
of the administrative costs of the programs, calculated by Duquesne in its original filing, and as more fully discussed in the body of this Opinion and Order.

3. That any party to the proceeding in Duquesne Light Company's Energy Efficiency and Conservation and Demand Response Plan at Docket No. M-2009-2093217, may file comments within fifteen (15) days from the date of entry of this Opinion and Order and, if necessary, reply comments may be filed no later than ten (10) days thereafter.

4. That, if adverse comments are filed, this matter will be the subject of further Commission action.

5. That, if no adverse comments are filed within fifteen (15) days from the date of entry of this Opinion and Order then this Order shall become final without further action by the Commission, and Duquesne Light Company shall file with this Commission and serve on all Parties of record in this proceeding a revised Energy Efficiency and Conservation Plan and the appropriate tariffs consistent with the modifications directed in this Opinion and Order, within twenty (20) days of the date of entry of this Opinion and Order.

BY THE COMMISSION



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: January 14, 2010

ORDER ENTERED: February 2, 2010