POST & SCHELL PC
ATTORNEYS AT LAW

17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Andrew S. Tubbs

atubbs@postschell.com
717-612-6057 Direct
717-731-1985 Direct Fax
File #: 149302

January 28, 2013

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 its Act 129 Phase II Energy Efficiency and Conservation Plan - Docket No. M-2012-2334399

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Joint Petition for Partial Settlement in the above-referenced proceeding. Copies have been provided as indicated on the Certificate of Service.

Respectfully submitted,

Andrew S. Tubbs

AST/jl
Enclosures

cc: Honorable Dennis J. Buckley
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).

VIA E-MAIL & FIRST CLASS MAIL

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

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

Patrick M. Cicero, Esquire
Harry S. Geller, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17102
CAUSE-PA

Pamela C. Polacek, Esquire
Teresa K. Schmittberger, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
Duquesne Industrial Intervenors

Theodore Robinson, Esquire
Citizen Power
2121 Murray Avenue
Pittsburgh, PA 15217
Citizen Power

Joseph L. Vullo, Esquire
1460 Wyoming Avenue
Forty Fort, PA 18704
Community Action Association of Pennsylvania

Jeffrey J. Norton, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
Comverge, Inc.

Date: January 28, 2013

Andrew S. Tubbs

10372822v1

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of its Phase II Energy Efficiency and Conservation Plan	: : : :	Docket No. M-2012-2334399

<u>JOINT PETITION FOR PARTIAL SETTLEMENT</u>

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE DENNIS J. BUCKLEY:

I. <u>INTRODUCTION</u>

The Office of Consumer Advocate ("OCA"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), the Community Action Association of Pennsylvania ("CAAP"), Citizen Power, Inc. ("Citizen Power"), Comverge, Inc. ("Comverge")_ and Duquesne Light Company ("Duquesne Light" or "Company"), parties to the above-captioned proceeding (hereinafter collectively referred to as the "Joint Petitioners"), hereby join in this Joint Petition for Partial Settlement ("Settlement") and respectfully request that the Commission approve the Settlement as set forth below. The Settlement has been agreed to or not opposed by all active parties in this proceeding.[1]

As fully set forth below, the Joint Petitioners have agreed to a settlement of all the issues raised by the parties but for the issues raised by DII, including acquisition costs and cost allocation in the above-captioned proceeding. The Settlement provides for the approval of Duquesne Light's Phase II EE&C Plan with certain clarifications and modifications to specific energy efficiency programs, including requiring the Company to refer low-income customers who participate in Duquesne Light's EE&C Plan low-income programs to its universal service programs and providing the opportunity for combined heat and power projects to receive custom

[1] The Office of Small Business Advocate ("OSBA") and the Duquesne Industrial Intervenors ("DII") have indicated that they do not oppose the Settlement.

measure rebates. In addition, the Settlement provides for the Company to meet with stakeholders to discuss increasing energy efficiency savings from non-lighting measures for the general residential sector. 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 service 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 November 15, 2012, pursuant to Act 129 of 2008 ("Act 129"), P.L. 1592, 66 Pa. C.S. §§ 2806.1 and 2806.2, Duquesne Light filed the above-captioned Petition with the Pennsylvania Public Utility Commission ("Commission"). Act 129, which became effective on October 15, 2008, created, inter alia, an energy efficiency and conservation ("EE&C") program, codified in the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 2806.1, 2806.2. This program required each EDC with at least 100,000 customers to adopt and implement a Commission-approved EE&C Plan. EE&C plans are programs designed to achieve the Act 129 conservation and peak load reduction requirements, by specified dates, within the specified cost cap.

3. In its Petition, Duquesne Light requested Commission approval of Duquesne Light's Phase II (June 1, 2013 – May 31, 2016) Energy Efficiency and Conservation Plan ("Phase II EE&C Plan") filed pursuant to the Implementation Order the Commission issued in Docket Nos. M-2012-2289411, M-2008-2069887. *Energy Efficiency and Conservation Program*, Docket Nos. M-2012-2289411, M-2008-2069887, 2012 Pa. PUC LEXIS 1259 (Implementation Order entered on August 3, 2012) ("*2012 Implementation Order*"). The Phase

II Plan includes a range of energy efficiency 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 meet the goals established by Sections 2806.1 and 2806.2 of Act 129 and the Commission's *2012 Implementation Order*.

4. Pursuant to the *2012 Implementation Order*, Duquesne Light is required to achieve a 2.0% energy consumption target, or 276,722 MWhs, over a three year period spanning June 1, 2013 through May 31, 2016. Phase II Order at 24. Pursuant to Act 129, the cost for achieving the consumption savings may not exceed 2% of the Company's 2006 annual revenues, including electric generation supplier ("EGS") revenues, which equates to an average of approximately $19.545 million per year for three years and approximately $58.65 million for the Phase II. The three-year Plan will start on June 1, 2013 and conclude on May 31, 2016. The Commission further established June 1, 2009 through May 31, 2010 as the baseline from which to measure savings.

5. Consistent with the requirements set forth in the Act 129 and the Commission's *2012 Implementation Order*, Duquesne Light's Phase II Plan: (a) includes measures to achieve or exceed the required reductions and states the manner in which the consumption reductions will be achieved or exceeded; (b) complies with the designated expenditure cap of 2% of 2006 Annual Revenues for each year of the three-year plan; (c) achieves a total cumulative energy reduction of at least 276,722 MWh by May 31, 2016, with at least 25% of the savings compliance target being achieved in each of the three program years; (d) achieves a minimum of ten percent (10%) of all consumption reduction requirements will come from units of federal, state and local governments, including municipalities, school districts, institutions of higher education and non-profit entities ("GNI"); (e) achieves a minimum of 4.5%

of the total required reductions from the low-income customer sector by May 31, 2016; (f) includes a proportionate number of energy efficiency measures for low income households as compared to those households' share of the total energy usage in the service territory; (g) offers at least one energy efficiency program for each customer sector and at least one comprehensive measure for residential and small commercial rate classes; (h) includes an approved contract(s) with one or more conservation service providers ("CSPs"); (i) includes a Phase II reconcilable adjustment clause tariff mechanism in accordance with 66 Pa.C.S. § 1307 cost recovery mechanism; and (j) demonstrates that the Phase II Plan is cost-effective based on the Commission's Total Resource Cost Test (TRC).

6. On December 1, 2012, a notice of Duquesne Light's November 15, 2012 filing was published in the *Pennsylvania Bulletin* establishing that comments on the Phase II EE&C Plan are due December 21, 2012.

7. On December 5, 2012, the OSBA filed a Notice of Intervention and Public Statement. On December 6, 2012, the OCA filed a Notice of Intervention and Public Statement. CAUSE-PA and CAAP filed Petitions to Intervene on December 6, 2012. Petitions to Intervene were filed on December 7, 2012 by DII and Citizen Power.

8. A prehearing conference was held on December 6, 2012 by Administrative Law Judge Dennis J. Buckley (the "ALJ"). Counsel for Duquesne Light, OCA, OSBA, CAUSE-PA, DII, CAAP and Citizen Power appeared. On December 12, 2012, the ALJ issued the Second Prehearing Order granting the Petitions to Intervene that were filed prior to the prehearing conference. On December 13, 2012, Duquesne Light filed Motion for Protective Order. Duquesne Light's Motion was granted by order entered on December 13, 2012.

9. On December 21, 2012, comments were filed with the Commission by OCA, DII, ACTION-Housing Pittsburgh, ReEnergize Pittsburgh Coalition and Comverge, Inc. ("Comverge"). In addition, Comverge filed a Petition to Intervene on December 21, 2012. In accordance with the procedural schedule, on January 3, 2013, direct testimony was distributed to all active parties by OCA, CAUSE-PA, and CAAP. On January 9, 2013, the ALJ issued the Fourth Prehearing Order, formally informing the parties that a party's comments would not be included in the certified record of this proceeding.

10. On January 14, 2013, the ALJ issued the Fifth Prehearing Order, granting Comverge's Petition to Intervene. Also, on January 14, 2013, Comverge filed a Petition for Admission *Nunc Pro Tunc* of Direct Testimony.[2]

11. On January 15, 2013, Duquesne Light served rebuttal testimony on the active parties to the proceeding. An evidentiary hearing was held on January 18, 2013.

12. The parties were involved in a number of discussions over the course of this proceeding. As a result of those discussions and the efforts of the Joint Petitioners to examine the issues in the proceeding, a settlement in principle of all but one issue was achieved by the Joint Petitioners, thereby negating the need for the scheduled evidentiary hearings on most issues. Therefore, the Joint Petitioners requested the ALJ hold a hearing to allow for cross-examination of issues raised by DII and for the introduction and admission into evidence of Duquesne Light's Phase II EE&C Plan, testimony and exhibits and the testimony and exhibits filed by the other parties during the course of the proceeding. The hearing was held before the ALJ on January 18, 2013.

13. The Joint Petitioners have been able to agree to the Settlement covering all but the issues raised by DII in the proceeding, including acquisition costs and cost allocation. Joint

[2] Based upon the Settlement, Comverge requested that its Petition be withdrawn.

Petitioners have agreed to specific clarifications and modifications to the Company's Phase II EE&C Plan and to engage in ongoing discussions relative to certain aspects of the Duquesne Light's Plan. The Joint Petitioners are in full agreement that the Settlement is in the best interests of Duquesne Light and its customers.

14. The Settlement terms are set forth in the following Section III.

III. SETTLEMENT

15. The following terms of this Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners unanimously agree that the Settlement, which resolves all but the previously identified issues raised by DII, is in the public interest. The Joint Petitioners respectfully request that the Duquesne Light's Phase II EE&C Plan, including the Company's proposed pro forma Energy Efficiency and Conservation and Demand Response Surcharge, be approved subject to the terms and conditions of this Settlement specified below:

A. LOW-INCOME PROGRAMS AND PARTICIPATION

16. Duquesne Light's Low Income Energy Efficiency Program ("LIEEP") includes five programs: Residential Energy Efficiency Program ("REEP"), Whole House Audit Retrofit, Residential Appliance Recycling Program ("RARP"), School Energy Pledge Program ("SEP") and Residential Home Energy Reporting Program ("HER"). Residential and low income customers (total household income at or below 150% of the federal poverty level) are eligible for the same measures under the REEP, RARP, SEP and HER programs.

17. Duquesne Light will track the number of low-income participants in the REEP, RARP, SEP, and HER programs, as well as other general residential programs not targeted specifically to low-income households, through its Program Management and Reporting Systems

("PMRS") and will count savings from low-income participants in these programs for those confirmed low-income customers who have participated in these programs. For Duquesne Light's up-stream buy down program, Duquesne Light will track low-income participation via a survey method approved by the Statewide Evaluator.

18. Duquesne Light will refer confirmed low-income customers who participate in any of its general residential programs to its Act 129 low-income programs (specifically the Whole House Retrofit Program), its Universal Service programs, and the Low-Income Home Energy Assistance Program ("LIHEAP").

19. Duquesne Light will offer and market specialized measures for qualified low income customers (at or below 150% of the federal poverty level) whose primary heating or water heating sources are electric under its Whole House Retrofit Program. Specifically, qualified low income customers may receive, free of charge, one or more of the following measures, based upon the audit results:

a. Comprehensive Energy Audit
b. Direct Install measures:
c. CFLs 13W
d. Faucet Aerators
e. Showerhead
f. Smart Strip
g. Night Light
h. Refrigerator Replacement
i. Water Heater Pipe Wrap
j. Water Heater Tank Wrap
k. Attic, wall, and floor insulation
l. Blower door testing and air sealing
m. Sealing attic bypasses
n. Crawl space and heater insulation

o. Electric heating equipment repair and replacement

p. Duct insulation and repair

q. Caulking and weather stripping

r. Heat pump hot water heaters

20. A trained energy efficiency contractor will conduct an audit to determine efficiency potential and recommend measures. A variety of cost effective direct install measures, including but not limited to the foregoing, may be provided based on the results of the audit.

21. Duquesne Light will leverage Act 129 program by referring customers to existing universal service programs and low-income usage reduction program ("LIURP") resources and coordinating with natural gas distribution companies ("NGDC") and community based organizations ("CBOs") to provide low income services. Duquesne Light will facilitate this coordination by inviting representatives from the NGDCs with overlapping service territories to its Act 129 Stakeholder meetings and will place the issue of Duquesne Light/NGDC coordination on the agenda of those meetings.

B. EE&C PLAN IMPLEMENTATION ISSUES

22. Duquesne Light commits to hosting at least 2 stakeholder meeting per year to review plan progress with interested stakeholders. If Duquesne Light proposes significant changes to its EE&C Plan during the course of Phase II, the Company will convene additional stakeholder meetings to discuss those changes.

23. Duquesne Light will also work with NGDCs to provide joint rebates when the NGDC provides rebates to customers above 150% of the federal poverty level and to provide inter-utility audits to customers whose total household income is above 150% of the federal poverty level when available.

24. Within 60 days of the approval of the Company's EE&C Plan, the Company will meet in a collaborative with interested stakeholders to discuss recommendations to obtain greater residential sector savings from non-lighting measures. The Company will discuss with interested stakeholders a reallocation of residential customer expenditures to measures identified in the REEP and Whole House Audit Retrofit Programs, including, but not limited to, appliances, electronics, and where appropriate, water heating and space conditioning measures. Any agreed-upon changes to programs will be requested through the Commission's "Minor Changes" process, if necessary.

C. PROPOSED IMPROVEMENTS TO EE&C PLAN

25. The Company will make available to customers in the Whole House Audit Program a single application for multiple measures installed as a result of a comprehensive audit.

26. The Company will continue to monitor the new home construction market and the opportunity for introducing a residential new home program during Phase II. The Company will report on this issue at its stakeholder meetings.

27. Duquesne Light will evaluate requests for custom measure rebates on the case-by-case basis to determine cost effectiveness and energy savings potential. Measures, including combined heat and power ("CHP") projects, may be approved if found to be cost effective as indicated by the Total Resource Cost ("TRC") score above 1.0, as calculated in accordance with the Technical Reference Manual ("TRM") standards.

IV. RESERVED ISSUE FOR LITIGATION

28. The issues reserved for litigation relate to matter identified by DII, including to Duquesne Light's acquisition costs and cost allocation for the Large C&I customer sector.

V. SETTLEMENT IS IN THE PUBLIC INTEREST

29. This Settlement was achieved by the Joint Petitioners after an investigation of Duquesne Light's proposed Phase II EE&C Plan, including informal and formal discovery and the submission of direct testimony by a number of the Joint Petitioners and the Company's rebuttal testimony were admitted into the record at the evidentiary hearing.

30. Acceptance of the Settlement will avoid further administrative and possibly appellate proceedings regarding the issues resolved by this agreement thereby avoiding substantial cost to the Joint Petitioners and Duquesne Light's customers.

31. Duquesne Light, OCA, CAUSE-PA, CAAP, Citizen Power 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.

32. 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 "F".

VI. CONDITIONS OF SETTLEMENT

33. 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.

34. If the Commission does not approve the Settlement, 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.

35. 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.

36. 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.

37. 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.

38. 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.

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

Petitioners retain their rights to file briefs, exceptions and replies with respect to the reserved issue for litigation.

VII. CONCLUSION

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

1. That the Commission approve this Settlement including all terms and conditions thereof, without modification;

2. That Duquesne Light be permitted to implement its proposed Phase II EE&C Plan, as modified by this Settlement; and

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

Respectfully submitted,

Andrew S. Tubbs, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

For: *Duquesne Light Company*

Date: 1-28-13

Tishekia Williams, Esquire
Duquesne Light Company
411 Seventh Avenue, 16-4
Pittsburgh, PA 15219

David T. Evrard, Esquire
Brandon J. Pierce, Esquire
555 Walnut Street
Harrisburg, PA 17101-1923

For: *Office of Consumer Advocate*

Date: 1/28/13

Date: 1/28/13

Harry S. Gellar, Esquire
Patrick M. Cicero, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

For: *CAUSE-PA*

Date: ____________________

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
For: *CAAP*

Date: ____________________

Theodore S. Robinson, Esquire
2121 Murray Avenue
Pittsburgh, PA 15217

For: *Citizen Power, Inc.*

Date: 1/28/13

Jeffery J. Norton, Esquire
Eckert, Seamans, Cherin & Mellot, LLC
8th Floor
Harrisburg, PA 17101

For: *Comverge, Inc.*

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Date: ______________________

Harry S. Gellar, Esquire
Patrick M. Cicero, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

For: *CAUSE-PA*

Date: 1/28/2013

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
For: *CAAP*

Date: ______________________

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2121 Murray Avenue
Pittsburgh, PA 15217

For: *Citizen Power, Inc.*

Date: ______________________

Jeffery J. Norton, Esquire
Eckert, Seamans, Cherin & Mellot, LLC
8th Floor
Harrisburg, PA 17101

For: *Comverge, Inc.*

Harry S. Gellar, Esquire
Patrick M. Cicero, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Date: ________________

For: *CAUSE-PA*

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Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
For: *CAAP*

Date: ________________

Theodore S. Robinson, Esquire
2121 Murray Avenue
Pittsburgh, PA 15217

Date: 1/28/13

For: *Citizen Power, Inc.*

Jeffery J. Norton, Esquire
Eckert, Seamans, Cherin & Mellot, LLC
8th Floor
Harrisburg, PA 17101

Date: ________________

For: *Comverge, Inc.*

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Appendix A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of Changes to its Phase II Energy Efficiency and Conservation Plan	: : : :	Docket No. M-2012-2334399

STATEMENT OF DUQUESNE LIGHT COMPANY IN SUPPORT OF JOINT PETITION FOR PARTIAL SETTLEMENT

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE DENNIS J. BUCKLEY:

I. INTRODUCTION

Duquesne Light Company ("Duquesne Light" or the "Company") hereby submits this Statement in Support of the Joint Petition for Partial Settlement in the above-captioned proceeding ("Settlement") entered into by Duquesne Light, the Office of Consumer Advocate ("OCA"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), the Community Action Association of Pennsylvania ("CAAP"), Citizen Power, Inc. ("Citizen Power"), and Comverge, Inc. ("Comverge"), (hereinafter collectively referred to as the "Joint Petitioners"), parties to the above-captioned proceeding.[1] Duquesne Light respectfully requests that 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 parties to this proceeding, with the exception of the limited issues identified by DII relative to acquisition costs and the bidding of energy efficiency savings into wholesale energy markets. Given the diverse interests of the Joint Petitioners and the active role they have taken in this proceeding, the fact

[1] The Office of Small Business Advocate ("OSBA") and Duquesne Industrial Intervenors ("DII"), intervenors in this proceeding, have indicated that they do not object to the Settlement.

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 formal and informal discovery and engaged in a number of settlement discussions which ultimately led to 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:

II. <u>DUQUESNE LIGHT'S PHASE II EE&C PLAN</u>

On November 15, 2012, pursuant to Act 129 of 2008 ("Act 129"), P.L. 1592, 66 PaC.S. §§ 2806.1 and 2806.2, Duquesne Light filed its Phase II Energy Efficiency and Conservation ("EE&C") Plan with the Pennsylvania Public Utility Commission ("Commission"). Duquesne Light requested Commission approval of Duquesne Light's Phase II (June 1, 2013 – May 31, 2016) Energy Efficiency and Conservation Plan ("Phase II EE&C Plan") pursuant to Act 129 and the Commission's Implementation Order the Commission issued in Docket Nos. M-2012-2289411, M-2008-2069887. *Energy Efficiency and Conservation Program,* Docket Nos. M-2012-2289411, M-2008-2069887, 2012 Pa. PUC LEXIS 1259 (Implementation Order entered on August 3, 2012) ("*2012 Implementation Order*"). Duquesne Light's Phase II Plan includes a range of energy efficiency 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 meet the goals established by Sections 2806.1 and 2806.2 of Act 129 and the Commission's *2012 Implementation Order*.

As noted by Duquesne Light witness Defide, no party in this proceeding asserted that the Company's proposed Phase II EE&C Plan would not achieve the mandated levels of conservation required by Act 129 and the Commission's Order as filed. Duquesne Light Statement No. 1R, p. 2. Instead, several parties proposed selective changes to Duquesne Light's Plan. It is these proposals that are addressed by the proposed Settlement. However, prior to addressing the specific settlement terms, Duquesne Light will detail how its proposed Phase II EE&C Plan comports with Act 129 and the Commission's *2012 Implementation Order*. To assist in this process, Duquesne Light will use the headings from the common brief outline provided to the parties by Administrative Law Judge Buckley (the "ALJ").

A. DESCRIPTION OF EDC PLAN

1. Act 129 Conservation Requirements

The required elements of an EDC's Plan are set forth in Sections 2806.1 and 2806.2 of the Public Utility Code, 66 Pa.C.S. §§ 2806.1 and 2806.2, as well as the Commission's *2012 Implementation Order*. The *2012 Implementation Order* provides, in pertinent part, that an EDC's filing for Commission approval of an EE&C Plan must provide information regarding the following:

a. Comply with the designated expenditure cap which is approximately $58.65 million for the Phase II period. The three-year plan will start on June 1, 2013 and conclude on May 31, 2016.

b. Achieve a total overall energy reduction of at least 276,722 MWh by May 31, 2016. At least 25% of the energy reduction target must be achieved in each of the three program years.

c. Achieve a minimum of 10% (27,672 MWh) of the total required energy reductions from GNI customers by May 31, 2016.

d. Achieve a minimum of 4.5% (12,452 MWh) of the total required energy reductions from the low-income customer sector (<= 150% of Federal Poverty

Income Guidelines) by May 31, 2016. This includes savings from low-income programs and low-income participation in general residential programs.

e. Ensure that the proportion of measures available to the low-income sector is at least 7.88% of the total measures available to all customer sectors.

f. Offer at least one energy-efficiency program for each customer sector and offer a reasonable mix of energy-efficiency programs for all customer sectors. Offer at least one comprehensive measure for residential and small commercial customer sectors.

g. Ensure that the portfolio is cost-effective based on the TRC Test.

h. Allocate the cost of measures to the customer class(es) that receive(s) the benefit of those measures.

i. Define the roles and responsibilities of Conservation Service Providers ("CSP").

j. Include procedures to measure, evaluate, and verify performance of the programs and the plan as a whole. These procedures are described in Duquesne Light's Evaluation Plans, which are submitted separately and approved by SWE.

k. Define a mechanism for recovery of all applicable costs.

Duquesne Light's Phase II EE&C Plan satisfies all of the requirements noted above. The Company's Plan contains all of the information requested by the Commission in the *2012 Implementation Order* (pp. 10-12) and has allocated costs associated with the EE&C measures to the customer class that receives the benefits.

2. Overall Conservation Requirements

The Commission's *2012 Implementation Order*, determined the required consumption reduction targets for each EDC and established guidelines for implementing Phase II (June 1, 2013 – May 31, 2016) of the EE&C program. Pursuant to that order, Duquesne Light is required to achieve a 2.0% energy consumption target, or 276,722 MWhs, over a three year period spanning June 1, 2013 through May 31, 2016. *2012 Implementation Order* at 24. Consistent with the methodology employed for the Company's Phase I EE&C Plan, Duquesne Light established its portfolio of programs with an objective that is 20% above the Company's Phase II consumption reduction target. Phase II EE&C Plan, p. 15; Duquesne Light St. 1R, pp. 6-7. Based on Duquesne Light's experience, the Company has designed a plan to achieve energy savings by May 31, 2016 of more than 332,000 MWh. Phase II EE&C Plan, p. 6.

3. Requirements for a Variety of Programs Equitably Distributed

66 Pa.C.S. § 2806.1(a)(5) provides that the Commission shall implement standards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers. The Commission addressed this requirement in the *2012 Implementation Order,* and Duquesne Light's Plan fully complies with this requirement by, among other things, offering a mix of energy efficiency programs for all customers and by having measures for low-income customers as well as for governments, schools and nonprofit organizations ("GNI").

Duquesne Light's Phase II EE&C Plan includes a total of nineteen programs: six programs targeting the residential sector; nine programs targeting the commercial sector; and four programs targeting the industrial sector. Three of the commercial programs Duquesne Light have developed to target customers in the GNI sector. In compliance with the Secretarial Letter dated September 26, 2012 at Docket No. M-2012-2289411, Duquesne Light has differentiated its programs according to the customer classes defined in the EE&C Plan template. Phase II EE&C Plan Section 3.2. Duquesne Light has defined its customer sectors consistent with its existing tariff. However, where programs offer customer benefits across multiple classes, and where similar implementation, marketing, and administrative strategies may be utilized to capture functional efficiencies, those programs will be offered to all appropriate customer classes. Regardless, Duquesne will document, track and report on its program results and progress by the customer classes identified in its Phase II Plan.

4. 10% Government/Non-Profit Requirement

A minimum of 10% of the required reductions in consumption and demand, noted above, must be obtained from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and nonprofit entities, *i.e.*, GNI customers. 66 Pa.C.S. § 2806.1(b)(i)(G); *2012 Implementation Order* at 45. The EE&C Plan is designed to achieve 10% of total Plan reductions from GNI customers. For Duquesne Light, the GNI carve-out is 27,672 MWh. The Company's EE&C Phase II Plan is designed to achieve the 10% GNI carve out consumption reduction target through the Multifamily Housing Retrofit, Public Agency Partnership Program and Education Segment Energy Efficiency programs. Collectively, Duquesne Light anticipates achieving 33,206,640 kWhs of consumption reduction from these programs to meet its 10% reduction target. Phase II EE&C Plan, p. 15.

5. Low-Income Program Requirements

Regarding low-income customers, 66 Pa.C.S. § 2806.1(b)(i)(G) provides that an EDC's conservation plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. According to § 2806.1(b)(i)(G), the number of measures shall be proportionate to those households' share of the total energy usage in the service territory. Furthermore, an EDC's expenditures under § 2806.1(b)(i)(G) are in addition to expenditures made under 52 Pa. Code Ch. 58 (relating to residential low-income usage reduction programs). In its *2012 Implementation Order*, the Commission also directed that each EDC obtain a minimum of 4.5% of its total required consumption reduction from low-income customers by May 31, 2016. *2012 Implementation Order* at 54. These savings may be achieved directly from low-income sector programs as well as low-income customer participation in general residential programs.

As required in the Commission's *2012 Implementation Order*, Duquesne Light has designed its Phase II EE&C Plan so that the number of measures available to low-income customers exceeds its 7.88% requirement. Specifically, the Company's Phase II EE&C Plan offers nine programs to the low-income sector, thereby providing this sector with a proportion of measures in excess of their share of the Company's total load. Phase II EE&C Plan Section 9.1.3. Further, to achieve the required 4.5% low-income consumption carve-out target, the Company proposes to implement low-income energy efficiency measures to achieve 14,942,988 kWhs, for a Phase II EE&C Plan low-income savings target of 5.3%.

6. <u>Whole House Measure(s) Requirement</u>

The Commission's *2012 Implementation Order* requires that Duquesne Light's Phase II EE&C Plan include at least one comprehensive measure for residential and small commercial rate classes. *2012 Implementation Order* at 20. Duquesne Light has proposed to include a Whole House Retrofit Program in its Phase II EE&C Plan. This program is designed to provide resources to residential customers to obtain a comprehensive residential home energy audit, installation of Residential Home Audit Conservation Kit and rebates for a range of eligible measures. Duquesne Light St. No. 1, p. 11.

To meet the requirement for the Small C&I sector, as part of the commercial umbrella program, Duquesne Light has proposed a Multifamily Housing Retrofit Program where commercial customers will obtain energy efficiency services such as audits, technical assistance for measure level project review and bundling, property aggregation, contractor negotiation and equipment bulk purchasing. Duquesne Light St. No. 1, p. 18. The Company's EE&C Phase II Plan is designed to achieve the 10% GNI carve out consumption reduction target through the government and nonprofit specific targets, the Company has developed specific programs for these customers including the Multi-Family Housing Retrofit Program, the Public Agency

Participation Program and the Education Segment Program. These programs supplement the other commercial programs in the Phase II EE&C Plan and are intended to meet the needs of this subset of customers. Collectively, Duquesne Light anticipates achieving 33,206,640 kWhs of consumption reduction from these programs to meet its 10% reduction target.

B. COST ISSUES

1. Plan Cost Issues

Section 2806.1(g) of Act 129 requires that the total cost of any EE&C Plan cannot exceed two percent (2%) of the EDC's total annual revenues as of December 31, 2006. The three year cost of the Company's EE&C Phase II Plan is projected to be $58,637,392 which is consistent with the spending cap established by Act 129, inclusive of EGS revenue. Phase II EE&C Plan Section 7.1. The projected costs include incentives, program administration and portfolio administration costs, exclusive of the Company's share of costs for the Statewide Evaluator.

The Company's total cost to implement its Phase II Plan will include the costs incurred to develop its EE&C Plan. Phase II EE&C Plan Sections 1.7, 7.2. In the *2012 Implementation Order*, the Commission found that EDCs should be permitted to recover the incremental cost incurred to design, create, and obtain Commission approval of a plan. *2012 Implementation Order* at 103. In addition, consistent with the Commission's directive, Duquesne Light for accounting purposes will defer its Phase II EE&C Plan development costs incurred during Phase I as a regulatory asset until Phase II cost recovery rates become effective. *2012 Implementation Order* at 114. The Company proposes to amortize and recover those deferred costs ratably over the 36-month life of its Phase II Plan (*i.e.*, June 1, 2013 through May 31, 2016). The amortization of those costs is included within the $58.5 million spending cap.

2. Cost Effectiveness/Cost-Benefit Issues

Duquesne Light's proposed Phase II Plan is cost effective, based on a Total Resource Cost ("TRC") criterion. See Phase II EE&C Plan Section 8; Duquesne Statement No. 1, p. 7. No party challenged the Company's cost effectiveness/cost-benefit determinations set forth in its Phase II EE&C Plan, therefore the Company's proposal should be adopted.

Under Act 129, the Commission is required to use a TRC test to analyze the costs and benefits of EDC energy efficiency and conservation plans. Act 129 defines the TRC as "a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures." Under Act 129, EDCs must demonstrate that its Phase II EE&C Plan is cost effective using the TRC test. The TRC test for Phase I was adopted by the Commission Order at docket number M-2009-2108601 on June 23, 2009. The Order was modified on August 2, 2011. On August 30, 2012, the Commission issued an Order making additional revisions to the TRC. Duquesne Light measured the cost effectiveness of its EE&C Phase II Plan based on the TRC as modified by the August 30, 2012 Order. Duquesne Light Statement No. 1, p. 7. The results of the TRC are expressed as the net present value and benefit/cost ("B/C") ratio. Consistent with the August 30, 2012 Order, a B/C ratio greater than one indicates that the program is beneficial to the utility and its ratepayers on a total resource cost basis. Duquesne Light's proposed EE&C Phase II Plan overall B/C score is 1.8. Accordingly, the Plan is cost effective as a whole.

3. Cost Allocation Issues

No other party served testimony relative to Duquesne Light's proposed allocation of cost in its Phase II EE&C Plan. However, at hearing, DII conducted limited cross-examination of one of Duquesne Light's witnesses. However, it is not clear at this point in the proceeding what issue DII may raise in its Main Brief. Duquesne Light will respond fully in its reply brief to any issues raised by DII, but also reserves the right to object to issues raised by DII for the first time on brief. *See Pa. P.U.C. v. Philadelphia Electric Co.*, 56 Pa. PUC 191, 236 (1982) (it is highly inappropriate for a party to raise new issues for the first time in its brief).

4. Cost Recovery Issues

Act 129 permits EDCs to fully recover the costs of implementing its EE&C Plan. In addition, EDCs are permitted to recover on a full and current basis from customers, through a reconcilable adjustment clause under 66 Pa.C.S. § 1307, ("Section 1307"), all reasonable and prudent costs incurred in the provision or management of its plan. 66 Pa.C.S. § 2806.1(k)(1).

Further, the Commission's *2012 Implementation Order* provides further guidance for the Phase II EE&C Plans. Specifically, the Commission states that, "[t]he Phase II cost recovery mechanism is to be a separate cost recovery mechanism from that used for Phase I. Such a mechanism shall be designed to recover, on a full and current basis, without interest, from each customer class, all prudent and reasonable EE&C costs that have been assigned to each class." *2012 Implementation Order*, p. 118. The Implementation Order also directs that EDCs clearly identify and distinguish and separately account for its Phase I and Phase II EEC Plan costs. Further, the Commission directed that EDC Phase II costs be reconciled against the Phase II funds collected.

The Company is proposing to continue the same cost recovery mechanism used in Phase I in its Phase II EE&C Plan. Duquesne Light Statement No. 2, p. 4. However, consistent with the Commission's *2012 Implementation Order*, the surcharge will separately account for and reconcile Phase I and Phase II expenses. The Residential surcharge is designed to recover costs on a cents per kilowatt-hour basis with an annual reconciliation; the charges would be included in the overall distribution kWh rate. The Small and Medium Commercial and Industrial surcharges are also designed to recover costs on a cents per kilowatt-hour basis with an annual reconciliation. The large Commercial and Industrial surcharges are designed to recover costs through a combination of a fixed monthly surcharge and a demand-based surcharge with an annual reconciliation. All of the commercial and industrial customers will have a separate line item delineation of these charges on the bill. Phase II EE&C Plan Sections 1.8, 7.4.

The Company will implement five surcharges to recover costs as close as reasonably possible to the customer class receiving the benefit. The costs are first defined for the three specific customer classes – residential, commercial and industrial. Commercial and industrial ("C&I") customers were separated into small and medium C&I and large C&I customer segments because of the diversity in the size of C&I customers in the Company's service territory to allow for more reasonable cost recovery. Small and medium C&I customers are those customers with monthly metered billing demand 300 kW and less. Large C&I customers are those customers with monthly billing metered demand greater than 300 kW. This segmentation of customers is appropriate because it aligns programs and program costs with the current tariff and with the tariff charges for distribution, transmission and default service supply. C&I program costs were then assigned for recovery first based on program description (e.g. Office Buildings – Large). Duquesne Light will implement a rate design using a fixed customer charge to recover the administrative costs and a demand charge, using Peak Load Contribution, to recover the incentive costs for Large Commercial and Large Industrial customers. The fixed customer charge component of the surcharge and the demand charge component of the surcharge are set forth as two separate line item charges on the customer bill. Phase II EE&C Plan Section 7.5.

The Commission's *Phase II Order* directed that each EDC to develop a Phase II reconcilable adjustment clause tariff mechanism in accordance with 66 Pa.C.S. § 1307 and include this mechanism in its Phase II Plan. *Phase II Order* at 118. The Phase II recovery mechanism is to be a separate cost recovery mechanism from that used in Phase I and will be accounted for and reconciled separately from Phase I funds. *Id.* Duquesne's Phase II cost recovery mechanism is set forth in pro-forma tariff supplement to Tariff-Electric Pa. PUC No. 24 is included in Section 15 to the Phase II Plan.

All costs attributable to the Company's Phase I EE&C Plan will be accounted for by May 31, 2013 with minor exceptions. Costs associated with projects completed but not paid for will be accrued in Phase I and will be paid based upon surcharge funding from Phase I. Costs incurred for Phase I after May 31, 2013 will be reconciled and identified separately in the next reconciliation filing. From June 1, 2013, all costs associated with Phase II program plan will be identified and tracked in the Program Management Reporting System. As in prior Phase I program years, Duquesne Light will reconcile on an annual basis, filed with the Commission on July 1 for revised surcharge to be effective on September 1. Phase II EE&C Plan Section 7.6.

C. CSP ISSUES

Duquesne Light's implementation strategy will rely on a broad range of contractors, subcontractors or CSPs, trade allies, community agencies, and other entities engaged in energy efficiency to promote, deliver, and support the effective deployment of the portfolio of programs. Phase II EE&C Plan Sections 1.6. Duquesne Light will use CSPs to deliver services in support of some of its EE&C programs, with some CSPs operating as turnkey program delivery contractors, and others providing specific program functions across multiple programs. No party challenged the Company's proposal set forth in its Phase II EE&C Plan, therefore the proposal should be adopted.

Consistent with the Commission's Implementation Order, Duquesne Light anticipates retaining certain current CSPs. Duquesne Light is permitted to "retain, along with justification for retaining, a CSP and the cost associated with that contract." *2012 Implementation Order* at 94. The Company anticipates submitting its proposed Conservation Service Provider ("CSP") contracts in February 2013. However, an approved CSP contract is attached the Phase II Plan. Phase II EE&C Plan, Section 13. CSP contracts will be effective upon Commission approval of Duquesne Light's Phase II EE&C Plan, to ensure a smooth transition and start of programs on June 1, 2013. As stated above, no party has challenged the Company's proposal with regard to CSPs, therefore its proposal should be adopted.

D. IMPLEMENTATION AND EVALUATION ISSUES

1. Implementation Issues

Pursuant to the Company's Phase I EE&C Plan Order, during Phase I, Duquesne held bi-annual stakeholder meetings to solicit input on the Watt Choices programs. Duquesne Light Statement No. 1, p. 8. Further, the Company held a series of stakeholder meetings in preparing its Phase II EE&C Plan. Although modifications had to be made to the original plan based upon funding and analysis, the stakeholders' discussion were instrumental in moving forward with the whole house approach. Duquesne Light Statement No. 1, pp. 8-9. As confirmed in the Settlement detailed in Section III below, the Company will continue to hold bi-annual stakeholders meetings during Phase II of its EE&C Plan.

2. QA Issues

A detailed description of Duquesne Light's Quality Assurance/Quality Control process and standards is provided in Section 6.1.1 of the Phase II EE&C Plan. No party challenged the Company's proposal set forth in its Phase II EE&C Plan, therefore, the proposal should be adopted. Quality assurance and quality control ("QA/QC") is integral to implementation plans for each program. See Phase II EE&C Plan Sections 1.7. and 6.1.1. As addressed in the Company's Plan, all CSPs under contract to implement Duquesne Light energy efficiency programs are required by contract statements of work to provide a Program Management Plan ("PMP"). The PMP presents the program rationale, assumptions, approach, processes to include policies and procedures, production plan, marketing plan, performance metrics and a quality assurance plan. Phase II EE&C Plan, Section 1.7. Duquesne Light has assured that procedures are in place to ensure prospective projects receive appropriate and consistent review prior to approval and incentive payment processing. *See*, Phase II EE&C Plan, Section 6.1.2.

3. Monitoring and Reporting Issues

Duquesne Light's Program Management and Reporting System ("PMRS") provides information reported to the Commission's appointed statewide evaluator ("SWE"). The Company developed PMRS for tracking, managing and reporting measure, project, program and portfolio activities. Phase II EE&C Plan, Section 5.2. The PMRS serves three primary purposes: (1) enable CSPs and internal management to create and/or upload program activities; (2) provide the capability to review and approve activities; and (3) provide comprehensive reporting to support Duquesne Light's internal and Commission reporting requirements. Phase II EE&C Plan, Section 5.2. No party challenged the Company's proposal set forth in its Phase II EE&C Plan, therefore, the proposal should be adopted.

4. Evaluation Issues

The proposed Phase II EE&C Plan includes procedures to measure, evaluate, and verify performance of the programs and the Plan as a whole. No party challenged the Company's proposal set forth in its Phase II EE&C Plan, therefore, the proposal should be adopted. As discussed in Section 6 of the proposed Phase II EE&C Plan, the Plan includes procedures to evaluate, measure, and verify ("EM&V") performance of the programs and the Plan as a whole, including an impact evaluation, a process evaluation, a net-to-gross evaluation, and a cost-effectiveness evaluation. These procedures are detailed in the SWE approved Duquesne Light Evaluation, Measurement and Verification Plan (EM&V Plan). *Id.* The annual cost-effectiveness evaluation of the Plan is conducted in accordance with the Commission's 2013 Total Resource Cost Test Order. Furthermore, the proposed Phase II EE&C Plan will be cost effective, based on a TRC criterion. Duquesne Light Statement No. 1, p. 7.

Projects and measures reported savings are verified pursuant to the Duquesne Light EM&V Plan. The EM&V Plan ensures customer projects are verified using a systematic process that is consistent with the SWE's Audit Plan and Evaluator's Framework for Pennsylvania Act 129 Energy Efficiency and Conservation Program (Audit Plan). The Duquesne Light EM&V Plan specific sample plans and applicable verification rigor consistent with the Audit Plan and is vetted with and approved by the SWE. Phase II EE&C Plan, Section 1.7.

E. OTHER ISSUES

All issues raised in during this proceeding have been addressed in prior sections.

III. SPECIFIC SETTLEMENT TERMS

A. LOW-INCOME PROGRAMS AND PARTICIPATION

1. Phase II Low-income Programs

Pursuant to the Settlement, Duquesne Light, in response to concerns raised by CAAP relative to the level by which the Company will target low-income customers, clarifies that its proposed Low-Income Energy Efficiency Program ("LIEEP") includes five programs: Residential Energy Efficiency Program ("REEP"), Whole House Audit Retrofit Program, Residential Appliance Recycling Program ("RARP"), School Energy Pledge Program ("SEP") and Residential Home Energy Reporting Program ("HER"). Settlement ¶ 16; Phase II EE&C Plan, Figure 16. As explained by Duquesne Light witness Defide, both residential and low-income residential customers (total household income at or below 150% of the federal poverty level) are eligible for the same measures under the REEP, RARP, SEP and HER programs. Specifically, the Low-Income Energy Efficiency Program includes:

1. Residential Energy Efficiency Program – Energy efficiency kits are provided to low-income customers at no cost; customers sign a pledge form committing to install the measures at their homes.

2. Whole House Retrofit Program - The only new program; services include home audit and installation of electric measures provided at no cost to low-income participant.
3. Residential Appliance Recycling - Program provides a $35 incentive; there is no cost whatsoever to participants for any associated services.
4. School Energy Pledge: School assembly, classroom curricula and energy efficiency tool kit provided at no cost to participants; more than 25% of the 16,000 students and their families participating in Phase I were documented low-income customers of Duquesne Light.
5. Home Energy Reporting – Provided at no cost to participant, program targets low-income sector with separate/discrete low-income peer group benchmarking.

In addition, Mr. Defide noted that, although these programs are available to all residential customers, the Company has created distinct features of these programs to ensure that low-income customers take advantage of the benefits offered by these programs. *Id.* Specifically, the services available under all five programs detailed above are provided at no cost to low-income participants. Duquesne Light Statement No. 1R, p. 13. The Company's Phase II LIEEP proposal builds off of Duquesne Light's strong participation in its four Phase I programs which demonstrated the programs reach the low-income sector, low-income customers benefit from the programs and the program results in savings impacts in low-income households verified by independent evaluators and accepted by the Public Utility Commission's Statewide Evaluator. *Id.*

2. Tracking of Low-Income Participation

Under the Settlement, Duquesne Light reaffirms, as it has in the past, it will continue to track and report participation by low-income customers in its general REEP, RARP, SEP, and HER programs. To facilitate this, Duquesne Light's Act 129 Program Management and Reporting System, with links to Duquesne Light's customer information billing system, and based on customer low-income account identification, will track and report low-income customer participation in, and savings from these programs. Settlement ¶17. However, consistent with the Commission's 2013 TRC Order, Duquesne Light will track low-income participation via a survey method approved by the Statewide Evaluator for its up-stream buy down program. Through the Settlement, the parties are provided with assurances that the Company will verify income of participants in the identified programs. Further, the provision recognizes that the Company retains the ability to use the Commission-approved survey method where income verification via PMRS is not possible or may not be cost effective.

In response to CAAP's request that Duquesne Light be required to refer confirmed low-income customers to the Company's low-income programs, under the Settlement Duquesne Light has agreed to continue its Phase I practice of referring confirmed low-income customers who participate in any of its general residential programs to its Act 129 low-income programs (specifically the Whole House Retrofit Program) and its Universal Service programs. Settlement ¶ 18. In addition, Duquesne Light has agreed to refer these customers to the Low-Income Home Energy Assistance Program ("LIHEAP"). *Id.* This term of the Settlement affirms that the Company will continue to leverage its existing universal service programs with its Act 129 resources. In addition, this term of the Settlement will assist the Company's low-income customers by referring them to additional services that may assist them in managing their energy usage and costs, as well as helping the Company achieve its Act 129 consumption reduction and other Commission-mandated targets during its Phase II EE&C Plan.

3. Whole House Retrofit Program

The OCA suggested that Duquesne Light's Whole House Retrofit Program does not take advantage of the opportunity to achieve direct install savings and provide diagnostic benefits during the on-site audit. OCA Statement No. 1, p. 20. For example, the OCA recommended that on-site audits conducted under the Company's Phase II EE&C Plan should install more than the 4 (13 Watt) CFL replacements. *Id.* The Company explained in rebuttal, that in developing this program, the Company incorporated the Home Audit Conservation Kit described in Section 2.7 of the Pennsylvania 2012 and 2013 TRMs and that its Plan augments the referenced TRM Home Audit Conservation Kit by adding a refrigerator replacement and for homes with electric water heating, a low flow showerhead, water heater pipe wrap and water heater tank wrap. Duquesne Light Statement No. 1R, p. 27.

However, the Company also noted that the description of direct installation measures it its EE&C Plan was used for planning, but did not result in a limitation of services to be provided under the Whole House Retrofit Program. That is, if during the course of an audit, more cost effective opportunities to install measures, such as efficient lighting, guided by basic protocols, are identified, the program will install a greater number of measures. In order, to provide adequate assurances to the parties, by the Settlement, Duquesne Light has agreed to offer and market specialized measures for qualified low-income customers (at or below 150% of the federal poverty level) whose primary heating or water heating sources are electric under its Whole House Retrofit Program. Specifically, qualified low-income customers may receive, free of charge, one or more of a number of identified measures. Settlement ¶ 19. Further, the

Settlement provides that a trained energy efficiency contractor will conduct an audit to determine efficiency potential and recommend measures. Settlement ¶ 20.

4. <u>Coordination with Natural Gas Distribution Companies ("NGDCs") and Community Based Organizations ("CBOs")</u>

In its testimony, CAUSE-PA requested that Duquesne Light more closely collaborate with the NGDCsin its service territories. CAUSE-PA Statement No. 1, p. 13. Similarly, CAAP requested that the Company coordinate its Phase II EE&C Plan activities with CBOs. CAAP Statement No. 1, pp. 6-7. In its rebuttal testimony, the Company explained that it currently coordinates with each of the three NGDCs operating within its service territory. Duquesne Light Statement No. 1, pp. 16-17. In addition, the Company stated in rebuttal that it would continue to work with CBOs during its Phase II EE&C Plan. *Id.* Through Paragraph 21 of the Settlement, Duquesne Light has confirmed that it will continue its practice of partnering with the NGDCs on the low-income usage reduction programs ("LIURP") by implementing an integrated approach to offering programs to low-income customer with the NGDCs. Duquesne Light believes that this continued coordination will benefit the low-income customers it serves. In addition, the NGDCs that have overlapping service territories with Duquesne Light offer rebates to customers above the 150% poverty level. Duquesne Light will partner with the NGDCs, where possible, to offer joint rebates to these customers. Further, the Settlement provides that Duquesne Light will facilitate this coordination by inviting representatives from the NGDCs with overlapping service territories to its Act 129 Stakeholder meetings and will place the issue of Duquesne Light/NGDC coordination on the agenda of those meetings. Settlement ¶ 21. In addition, Duquesne Light has agreed to work with NGDCs to provide joint rebates when the NGDC provides rebates to customers above 150% of the federal poverty level and to provide inter-utility audits to customers whose total household income is above 150% of the federal poverty level when available. Settlement ¶ 23.

B. EE&C PLAN IMPLEMENTATION ISSUES

To address comments made by the parties during the course of settlement discussions, under the Settlement the Company commits to hosting at least two stakeholder meeting per year to review plan progress with interested stakeholders. In addition, the Company has agreed to convene additional stakeholder meetings to the extent that Duquesne Light seeks to propose significant changes to its EE&C Plan during the course of Phase II. Settlement ¶ 22. This settlement term confirms the Company's position in testimony. Duquesne Light Statement No. 1, p. 9. Moreover, this provision will continue to assist the Company in the operation of its Phase II EE&C Plan, as the Company valued the input it received from its stakeholders during Phase I and in the multiple meetings held with stakeholders in preparing its Phase II EE&C Plan. *Id.*

In addition, the Company has shown through this Settlement that it is willing to convene meetings to discuss issues that are important to stakeholders. Specifically, in response to a request by the OCA for the Company to consider increase the savings to be achieved from non-lighting measures, Duquesne Light has agreed to convene a meeting, within 60 days of the approval of the Company's Phase II EE&C Plan, with interested stakeholders to discuss recommendations to obtain greater residential sector savings from non-lighting measures. The Company will discuss with interested stakeholders a reallocation of residential customer expenditures to measures identified in the REEP and Whole House Audit Retrofit Programs, including, but not limited to, appliances, electronics, and where appropriate, water heating and space conditioning measures. Any agreed-upon changes to programs will be requested through the Commission's "Minor Changes" process, if necessary. Settlement ¶ 24.

C. PROPOSED IMPROVEMENTS TO EE&C PLAN

1. Whole House Energy Audit Program

During the course the proceeding, some parties raised concerns relative to the Company's proposed Whole House Energy Audit Program. Specifically, the OCA stated it was imperative the program be operated in a fashion to encourage participation by eligible customers. OCA Statement No. 1, p. 22. The Company agrees with the OCA that it is important to make its Phase II EE&C Plan programs accessible to interested participants. It is for this reason, the Company planned to require that participants in its Whole House Audit Program to complete a single application form for multiple measures installed as a result of a comprehensive audit under the program. Settlement provision 25 memorializes the Company's original intent, as this provision will assist both Duquesne Light and its customers as this new program is implemented in Phase II. Settlement ¶ 25.

2. New Home Construction Program

In its direct testimony the OCA recommended that Duquesne Light develop and implement a cost effective residential new construction program as part of its Phase II EE&C Plan. OCA Statement No. 1, pp. 24-25. The Company explained in its rebuttal testimony that it did not agree that a standalone new construction program was advisable in its Phase II EE&C Plan. Specifically, the Company noted that the vast majority of energy efficiency potential in its service territory is in the existing building stock. Duquesne Light Statement No. 1R, p. 32. Moreover, the Company noted that efficiencies on new construction are higher cost activities and that customers who are constructing a new home are able to take advantage of the Watt Choices programs under the existing residential programs. *Id.* However, as part of the Settlement, Duquesne Light has agreed to continue to monitor the new home construction market and the opportunity for introducing a residential new home program during Phase II. The Company will report on this issue at its stakeholder meetings. Settlement ¶ 26.

3. Combined Heat and Power

In this proceeding, Comverge raised the issue of CHP and the potential benefits of CHP for both Duquesne Light and its customers. As a means to settle this proceeding and to avoid potential litigation related to Comverge's Petition for Admission *Nunc Pro Tunc* of Direct Testimony, Duquesne Light has agreed to continue its practice from its Phase I EE&C Plan relative to CHP projects. Specifically, under the Settlement Duquesne Light has agreed to evaluate requests for custom measure rebates on the case-by-case basis to determine cost effectiveness and energy savings potential. Measures, including CHP projects, may be approved if found to be cost effective as indicated by the Total Resource Cost ("TRC") score above 1.0, as calculated in accordance with the Technical Reference Manual ("TRM") standards. Settlement ¶ 27. By this settlement term, Duquesne Light is providing assurance to customers and developers of CHP, that the Company will evaluate CHP projects during its Phase II EE&C Plan and provides such parties with the standards by which these projects will be evaluated.

IV. 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 Partial Settlement, Duquesne Light believes that the Joint Petition for Partial Settlement is just, reasonable, and in the public interest and, therefore, should be approved without modification.

V. **<u>CONCLUSION</u>**

The Settlement resolves the identified issues raised during this proceeding, limits the litigated issues in this complex proceeding and is unopposed. 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,

Tishekia E. Williams (ID # 208997)
Duquesne Light Company
411 Seventh Avenue 16-1
Pittsburgh, PA 15219
Phone: 412-393-1541
Phone: 412-393-6317
Fax: 412-393-1418
E-mail: twilliams@duqlight.com

Andrew S. Tubbs (ID # 80310)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: atubbs@postschell.com

Of Counsel:

Post & Schell, P.C.

Attorneys for Duquesne Light Company

Date: January 28, 2013

Appendix B

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company	:	
for Approval of its Act 129 Phase II	:	Docket No. M-2012-2334399
Energy Efficiency and Conservation Plan	:	

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

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Partial Settlement (Settlement), finds the terms and conditions of the Settlement to be in the public interest for the following reasons:

I. INTRODUCTION

On November 14, 2008, Act 129 of 2008 (Act 129) became effective. Act 129 contains a requirement for the Pennsylvania Public Utility Commission (Commission) to implement an Energy Efficiency and Conservation Program for Electric Distribution Companies (EDCs) with more than 100,000 customers. *See* 66 Pa.C.S. § 2806.1 *et seq*. The seven largest EDCs—PECO Energy Company (PECO), PPL Electric Utilities, Inc. (PPL), the FirstEnergy Companies (Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company), and Duquesne Light Company (Duquesne Light or the Company) filed their Phase I EE&C Plans in the summer of 2009. These Phase I Plans expire on May 31, 2013.

On August 3, 2012, the Commission entered its *Phase II Implementation Order,* tentatively adopting EDC-specific targets for reducing energy consumption for the next EE&C Program term (June 1, 2013-May 31, 2016). *Energy Efficiency and Conservation Implementation*

Order, Docket Nos. M-2012-2289411 and M-2008-2069887 (Order entered August 3, 2012) (*Phase II Implementation Order*). As part of that Order, each EDC was given an EDC-specific Phase II consumption reduction target. Duquesne's Phase II target was set at 2.0% of its expected sales for the June 1, 2009 through May 31, 2010 period. *Phase II Implementation Order* at 24. The Commission also directed that: (1) 10% of overall consumption reductions come from the Government/Institutional/Non-Profit sector; (2) a plan's portfolio of measures includes a proportionate number of low-income measures, and (3) EDCs obtain a minimum of 4.5% of their consumption reductions from the low-income sector. *Id.* at 45-57. As in Phase I, the total resource cost (TRC) test is to be used to evaluate each EDC's Plan. *Id.* at 78-83.

Act 129 caps annual spending on the Phase II Plan at 2% of the EDC's total revenues for calendar year 2006. 66 Pa.C.S. § 2806.1(g); *see gen'ly Phase II Implementation Order* at 100-119. The Act provides for full and current cost recovery of the Plan costs through an automatic adjustment rider, but prohibits the recovery of lost revenues by the EDC. 66 Pa.C.S. § 2806.1(b)(1)(H). The costs incurred are to be allocated to the classes that directly benefit from the measures implemented, unless a system-wide benefit can be shown.

The *Phase II Implementation Order* also details the Plan approval process. According to the Order, the EDCs were to file their proposed Plans by November 1, 2012, and the Commission was to publish the Plans in the *Pennsylvania Bulletin* within 20 days of filing.[1] An Answer along with comments and recommendations is to be filed within 20 days of publication. The Plans were to be referred to the Office of Administrative Law Judge (ALJ) and scheduled for hearings to be completed no later than the 65th day after the Plan is filed. The Commission will approve or reject all or part of the plan at public meeting within 120 days of the EDC's

[1] Due to Hurricane Sandy, the Commission issued a Secretarial Letter extending the Plan submission filing date to November 15, 2012 and the Commission Order date to March 15, 2012. Duquesne filed its Plan on November 15th, and the Plan was published in the *Pennsylvania Bulletin* on December 1, 2012. 42 Pa.B. 7371.

filing. *Phase II Implementation Order* at 61-62. Duquesne filed its Phase II Energy Efficiency and Conservation Plan (Plan) on November 15, 2012 and the Commission Order is due in this matter by March 14, 2013. On December 10, 2012, ALJ Dennis J. Buckley held a prehearing conference where the Parties agreed to a procedural schedule, which is memorialized in Judge Buckley's December 12, 2012 Second Prehearing Order (Second Prehearing Order).

In accordance with Judge Buckley's Second Prehearing Order, the Parties (other than Duquesne) submitted Direct Testimony on January 3, 2013[2]; submitted Rebuttal Testimony on January 15, 2013; and conducted an evidentiary hearing on January 18, 2013. The hearing allowed for cross-examination by the Duquesne Industrial Intervenors (DII), regarding the issue of cost allocation of program costs to large commercial and industrial customers (Large C&I). The Second Prehearing Order also provided that the Parties submit Main Briefs by January 28, 2013; and submit Reply Briefs, Reply Comments, and the Revised Plan by February 7, 2013. The evidentiary record will be certified to the Commission on February 14, 2013, for consideration and vote by the March 14, 2013 deadline.

The Joint Petitioners participated in settlement discussions which resulted in this Joint Petition for Partial Settlement, which covers all but the issue raised by DII. Joint Petitioners have agreed to specific clarifications and modifications to the Company's Phase II EE&C Plan and to engage in continuing discussions regarding certain aspects of the Plan.

The Settlement provides for the approval of Duquesne Light's Phase II EE&C Plan with certain clarifications and modifications to specific energy efficiency programs, including

[2] The OCA presented the Direct Testimony of David G. Hill, Ph.D. Dr. Hill is employed by Vermont Energy Investment Corporation (VEIC) as a Managing Consultant. VEIC is a national energy efficiency and renewable energy nonprofit organization with headquarters in Burlington, Vermont. Dr. Hill has a Master's Degree in Appropriate Technology and International Development from the University of Pennsylvania and a Ph.D. in Energy Management and Policy Planning, also from the University of Pennsylvania. He has twenty years of experience with the planning, evaluation, and implementation of energy efficiency and renewable energy programs, has worked for dozens of utility and non-utility clients nationally and abroad, and has been a member of VEIC's Consulting Division since 1998.

requiring the Company to refer low-income customers who participate in Duquesne Light's general residential programs under Act 129 to its EE&C Plan low-income program, its universal service programs and its Low Income Usage Reduction Program (LIURP) and the Low Income Home Energy Assistance Program (LIHEAP). In addition, the Settlement provides for the Company to meet with stakeholders to discuss increasing energy efficiency savings from non-lighting measures for the general residential sector. As discussed below, the OCA submits that the Settlement is in the public interest and should be adopted.

II. TERMS OF SETTLEMENT

A. Low-Income Programs And Participation (Joint Petition, ¶¶ 16 – 21)

The Settlement provides several terms related to Duquesne's Low Income Energy Efficiency Program (LIEEP), which consists of five programs: Residential Energy Efficiency Program (REEP); Whole House Retrofit Program (WHRP); Residential Appliance Recycling Program (RARP); School Energy Pledge Program (SEP); and Residential Home Energy Reporting Program (HER). Residential and low income customers (total household income at or below 150% of the federal poverty level) are eligible for the same measures under the REEP, RARP, SEP, and HER programs. Settlement ¶ 16.

1. Tracking Low-Income Participation

Under the terms of the Settlement, Duquesne proposes to track low-income participants in the SEP, HER, RARP, and REEP programs, as well as other general residential programs not targeted specifically to low-income households, through its Program Management and Reporting Systems (PMRS) and will count the savings attributable to confirmed low-income participants toward the overall low-income usage reduction target. Settlement ¶ 17. This Settlement provision addresses concerns raised by OCA witness Hill regarding Duquesne's ability to document and demonstrate that low income customers are participating in the general market programs at the levels assumed in the Plan. OCA St. 1 at 28. The OCA submits that this provision will aid in the avoidance of double-counting savings for low-income and general market residential programs and will enable assessment of the success of the Company's outreach efforts to encourage participation in other programs. OCA St. 1 at 20.

2. WHRP Direct Install Measures for Low-Income Customers

As part of the Company's initial Phase II Plan proposal for its WHRP, Duquesne proposed to offer, free of charge, the following direct install measures for low-income customers depending on the results of a home energy audit: installation of CFLs, faucet aerators, low flow showerheads, smart strips, night lights, refrigerator replacement, water heater pipe wrap, water heater tank wrap, and other measures as applicable. Plan at 37.

Under the terms of the Settlement, Duquesne will add the following direct install measures, at no charge, for low income customers if determined necessary by a home energy audit: attic, wall, and floor insulation; blower door testing and associated air sealing; sealing of attic bypasses; crawl space and heater insulation; electric heating equipment repair and replacement; duct insulation and repair; caulking and weather stripping, and heat pump hot water heaters. Settlement ¶ 19.

The addition of these measures addresses OCA witness Hill's concern that the WHRP did not include enough measures at low or no cost to low-income customers. OCA St. 1 at 21, 25. In his testimony, Dr. Hill noted that low-income customers do not have the resources to afford higher cost energy efficiency products and services and can only take advantage of the program if the cost is fully covered. The addition of the extra direct install measures for low income customers helps meet this concern.

3. Low-Income Customer Referral

The Settlement also provides that Duquesne will refer low-income customers who participate in any of its general residential Act 129 programs to the WHRP and to existing universal service programs, LIURP and LIHEAP. Duquesne will also coordinate with community-based organizations (CBO) and natural gas distribution companies (NGDC) to provide low-income services. Settlement ¶¶ 18, 21. This settlement term will enable greater savings from low-income customer participation in the WHRP. Further, this settlement term is consistent with the recommendations of OCA witness Hill for greater coordination of program design and offerings with other Pennsylvania utilities and other energy service providers, such as natural gas and weatherization assistance providers. OCA St. 1 at 29. The OCA submits that working with an established network of other providers of low income services leverages existing infrastructure and resources and allows for more efficient program development and more spending to flow directly into energy savings for a segment of the population that is disproportionately affected by energy costs. OCA St. 1 at 16. Further, working with overlapping NGDCs allows Duquesne and local gas distribution companies to jointly assist customers and these efforts can be enhanced by further coordination of rebates, audits, and other more comprehensive services. *Id.* at 15-16.

B. EE&C Plan Implementation Issues (Joint Petition, ¶¶ 22 – 24)

1. Collaborative to Examine Savings from Non-Lighting Measures

The Settlement provides that within 60 days of the approval of the EE&C Plan, Duquesne will convene a collaborative with interested stakeholders to discuss options for obtaining greater residential sector savings from non-lighting measures. The collaborative will discuss a reallocation of customer expenditures to measures identified in the REEP and WHRP, including, but not limited to, appliances, electronics, and, where appropriate, water heating and space conditioning measures. Settlement ¶ 24. This term responds to concerns expressed by the OCA that the Company's program is too heavily reliant on lighting measures to achieve its usage reduction goals. OCA witness Hill testified that over 75% of residential savings under the Plan will come from an upstream CFL rebate program. OCA St. 1 at 17. The OCA submits that some of the non-lighting measures may yield greater savings. The collaborative will provide an opportunity to explore this potential and possibly modify the Plan to increase overall savings.

2. Stakeholder Meetings

Under the terms of the Settlement, Duquesne commits to hosting two (2) stakeholder meetings per year to review plan progress with interested stakeholders and commits to convening additional stakeholder meetings if the Company proposes any significant changes to its EE&C Plan during the course of Phase II. Settlement ¶ 22. The OCA submits that this term is sufficient to protect the interests of consumers and provide stakeholders with a forum for addressing any concerns or questions related to Phase II programs.

3. Coordination with Natural Gas Distribution Companies

Another provision of the Settlement states that Duquesne will work with NGDCs to provide joint rebates when the NGDC provides rebates to customers above 150% of the federal poverty level and provide inter-utility audits, when available, to customers whose total household income is above 150% of the federal poverty level. Settlement ¶ 23. This Settlement term is also consistent with the testimony of OCA witness Hill in which he encouraged Duquesne to engage in efforts to coordinate with local NGDCs on things like rebates and audits in the execution of its EE&C Plan. OCA St. 1 at 16.

C. Proposed Improvements to EE&C Plan (Joint Petition, ¶¶ 25-27)

1. Single Application for WHRP Measures

The Settlement provides that Duquesne will make available a single application for multiple measures installed as a result of a comprehensive audit under the WHRP. Settlement ¶ 25. This term responds to OCA concerns that the WHRP did not appear to employ a streamlined process for customers who would be installing multiple measures pursuant to a comprehensive energy audit. This concern is addressed with the use of the single application.

2. <u>Residential New Home Construction</u>

Another Settlement term provides that Duquesne will continue to monitor the new home construction market and the opportunity for introducing a residential new home program during Phase II. Settlement ¶ 26. The Company will report on this issue at its stakeholder meetings. This term addresses a portion of OCA witness Hill's testimony in which he recommended that the Company develop and implement a cost effective residential new construction program as part of its Phase II implementation plan. Mr. Hill testified that by helping new home owners with energy-related decisions during the early stages of a construction project, homebuilders can lock in long term, cost effective savings through the appropriate integration of efficiency measures and building design. Integrating efficiency at the outset of the project allows for reductions in the size of HVAC units and fewer and better placed lighting fixtures, among other things. OCA St. 1 at 24. While the Company, in its Rebuttal Testimony, argued against inclusion of a residential new home component to its Plan, this Settlement term commits Duquesne to continue to monitor the new home construction market to determine whether inclusion of such a component might be feasible at some point during Phase II.

III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Partial Settlement of this EE&C proceeding represent a fair and reasonable resolution of the issues and claims arising in this proceeding. If approved, the proposed Settlement will benefit the Commission and all Parties by foregoing the additional costs of litigation. For all of the foregoing reasons, the Office of Consumer Advocate submits that the proposed Settlement is in the public interest and the interest of the customers of Duquesne Light Company and should be approved.

Respectfully Submitted,

Brandon J. Pierce
Assistant Consumer Advocate
PA Attorney I.D. # 307665
E-Mail: BPierce@paoca.org

David T. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870
E-Mail: DEvrard@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

January 28, 2013

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Appendix C

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of its Phase II Energy Efficiency and Conservation Plan	: : : :	Docket No. M-2012-2334399

STATEMENT BY THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT

I. Introduction

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA) signatory party to the Joint Petition for Partial Settlement ("Partial Settlement") in the captioned proceeding submits this Statement in Support and requests that the terms and conditions of the Partial Settlement be approved by the Pennsylvania Public Utility Commission ("Commission"). The proposed Partial Settlement is in the public interest.

CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members for policies and practices enabling consumers of limited economic means to connect to and maintain affordable electric, natural gas, water, and telecommunication services. CAUSE-PA membership is open to moderate- and low-income individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low-income families maintain affordable access to utility services and achieve economic independence and family well-being. CAUSE-PA views access to weatherization assistance and energy efficiency and conservation as essential tools in assisting low-income households achieve energy affordability.

On November 15, 2012, Duquesne Light Company ("Duquesne" or the "Company") filed a Petition for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan ("Phase

II EE&C Plan" or "Plan") with the Pennsylvania Public Utility Commission (Commission) in compliance with 66 Pa. C.S. § 2806.1(b) (relating to energy efficiency and conservation programs.) CAUSE-PA filed a Petition to Intervene in the proceeding and was granted intervenor status on December 12, 2012 by Order of the Administrative Law Judge. Throughout these proceedings, CAUSE-PA has actively participated in discovery, the submission of testimony through its witness Thu B. Tran, and the negotiations regarding the settlement provisions set forth in the Joint Petition for Settlement.

CAUSE-PA's interest in this case is whether the proposed Act 129 Phase II Energy Efficiency and Conservation Plan effectively permits low-income residential customers to access appropriately tailored and targeted energy efficiency and conservation resources. Specifically, CAUSE-PA has addressed, among other issues, whether the proposed Phase II EE&C Plan properly ensures that the low-income population, as defined in Act 129, is correctly targeted; whether those low-income customers obtain a share of the total energy savings that is in accord with the Commission's August 3, 2012 Order; and whether the measures employed, and methods of coordination and education, are appropriate and consistent with the requirements of Act 129 and Commission Orders.

This Partial Settlement reflects a compromise on the issues presented within this proceeding and does not reflect the attainment of all of the positions advanced by CAUSE-PA as to those issues; however, it represents an agreement which is fair and reasonable, avoids the necessity for and uncertainty of outcome inherent in further administrative and potential appellate proceedings regarding those issues, and arrives at a negotiated outcome regarding the issues settled. All of this is in the public interest.

The Partial Settlement provides for the approval of Duquesne Light's Phase II EE&C Plan with certain clarifications and modifications to specific energy efficiency programs, including requiring the Company to refer low-income customers who participate in Duquesne Light's EE&C Plan low-income programs to its universal service programs. In addition, the Settlement provides that the Company will continue to meet with stakeholders to discuss increasing energy efficiency savings from non-lighting measures for the general residential sector.

II. Reasons for Support of the Partial Settlement as in the Public Interest

In Paragraph 17 of the Settlement, Duquesne has clarified that it will track the number of low-income participants in the REEP, RARP, SEP, and HER programs, as well as other general residential programs not targeted specifically to low-income households, through its Program Management and Reporting Systems ("PMRS") and will count savings from low-income participants in these programs only for those confirmed low-income customers who have actually participated in these programs. For Duquesne Light's up-stream buy down program, Duquesne Light will track low-income participation via a survey method approved by the Statewide Evaluator.

In her testimony, CAUSE-PA witness Tran raised this as an important issue. See CAUSE-PA Statement No. 1 at 17-19. It is essential that stakeholders know how the 4.5% savings target from the low-income sector is achieved. By counting only those confirmed low-income customers who actually participate in general residential programs, Duquesne is ensuring that it will not overestimate or over-count the number of low-income customers participating in these programs. This is important. The low-income carve out is intended to ensure that there are sufficient low-income programs through which low-income households can access no cost weatherization programs. As such, the general residential programs are an ancillary, rather than a primary, means of achieving Duquesne's 4.5% savings target for low-income households. By tracking and counting only confirmed low-income customers Duquesne is ensuring accuracy in its reporting of participation levels.

In paragraph 18 of the Partial Settlement, Duquesne committed to refer confirmed low-income customers who participate in any of its general residential programs to its Act 129 low-income programs (specifically the Whole House Retrofit Program), its Universal Service programs, and the Low-Income Home Energy Assistance Program (LIHEAP).

This was a concern that CAUSE-PA witness Tran raised in her testimony. See CAUSE-PA Statement No. 1 at 19-20. Low-income households are much better served by participating in low-income programs that have no upfront costs. While some low-income customers may participate in general residential programs, Duquesne's commitment to track and refer those customers to its low-income Act 129 programs, universal service programs, and LIHEAP is crucial.

Households at or below 150% of the federal poverty guidelines simply lack sufficient income to pay for all of their essential needs. Before all the bills are paid, low-income families routinely run out of money. Many cannot afford to pay for utility service because of the cost of competing essential needs like rent, food, and medicine, and low-income households have a significantly higher termination rate as compared to all residential customers. Id. at 8. Duquesne's commitment to ensure that its low-income customers are aware of available resources to assist them access weatherization, bill payment, and heating assistance is in the public interest and is an important step in mitigating some of the hardships facing low-income families.

In Paragraph 19 of the Partial Settlement, Duquesne has committed to offer **and** market specialized measures for qualified low income customers (at or below 150% of the federal poverty level) whose primary heating or water heating sources are electric under its Whole House Retrofit Program. This commitment is in the public interest and will allow qualified low income customers to receive, free of charge, one or more of the following measures, based upon the audit results from a qualified weatherization contractor:

a. Comprehensive Energy Audit
b. Direct Install measures:
c. CFLs 13W
d. Faucet Aerators
e. Showerhead
f. Smart Strip
g. Night Light
h. Refrigerator Replacement
i. Water Heater Pipe Wrap
j. Water Heater Tank Wrap
k. Attic, wall, and floor insulation
l. Blower door testing and air sealing
m. Sealing attic bypasses
n. Crawl space and heater insulation
o. Electric heating equipment repair and replacement
p. Duct insulation and repair
q. Caulking and weather stripping
r. Heat pump hot water heaters

Low-income households need access to weatherization and, when appropriately tied to the weatherization work performed, education to sustain and maintain the savings accomplished through that weatherization. These direct install measures, over half of which were suggested by CAUSE-PA witness Tran in her testimony, are an essential means of accomplishing this end.

In paragraph 21 of the Partial Settlement, Duquesne has committed to leverage its Act 129 program by referring customers to existing universal service programs and low-income usage reduction program ("LIURP") resources and coordinating with natural gas distribution companies ("NGDC") and community based organizations ("CBOs") to provide low income services. Duquesne will facilitate this coordination by inviting representatives from the NGDCs with overlapping service territories to its Act 129 Stakeholder meetings and will place the issue of Duquesne Light/NGDC coordination on the agenda of those meetings. Duquesne Light also committed to work with NGDCs to provide joint rebates when the NGDC provides rebates to customers above 150% of the federal poverty level and to provide inter-utility audits to customers whose total household income is above 150% of the federal poverty level when available. This intra-utility coordination is in the public interest because it conserves resources for the utilities and assists households in reducing the redundancies of audits from more than one utility.

Finally, in paragraphs 22-24, Duquesne committed to hosting at least 2 stakeholder meeting per year to review plan progress with interested stakeholders, and, within 60 days of the approval of the Company's EE&C Plan, the Company will meet in a collaborative with interested stakeholders to discuss recommendations to obtain greater residential sector savings from non-lighting measures. This commitment to continue a robust stakeholder process is significant because it provides interested stakeholders the means through which to speak into ongoing implementation and other concerns throughout the duration of the three-year EE&C Plan.

III. Conclusion

The Partial Settlement of the captioned matter was achieved after an investigation of Duquesne Light's proposed Phase II EE&C Plan, including informal and formal discovery, and after the submission of direct testimony by a number of the Joint Petitioners and the Company's rebuttal testimony were admitted into the record at the evidentiary hearing. Acceptance of the Settlement will avoid further administrative and possibly appellate proceedings regarding the issues resolved by this agreement thereby avoiding substantial cost to the Joint Petitioners and Duquesne Light's customers.

Accordingly, CAUSE-PA submits that the Partial Settlement is in the public interest and represents a reasonably balanced resolution of the numerous issues in this proceeding. CAUSE-PA respectfully requests that the Commission approve the Settlement.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

Harry S. Geller, Esq., PA ID: 22415
Patrick M. Cicero, Esq., PA ID: 89039
118 Locust Street | Harrisburg, PA 17101
Tel.: 717-236-9486 | Fax: 717-233-4088
pulp@palegalaid.net

January 28, 2013

Appendix D

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Duquesne Light Company – Petition For Approval of Act 129 Phase II Energy Efficiency & Conservation Plan	:	Docket No. M-2012-2334399

COMMUNITY ACTION ASSOCIATION OF PENNSYLVANIA'S STATEMENT IN SUPPORT OF JOINT PETITION FOR PARTIAL SETTLEMENT

NOW COMES the Intervenor, the Community Action Association of Pennsylvania (CAAP) and files this statement in support of the settlement reached in the above-captioned matter stating as follows:

1. CAAP is a not-for-profit Pennsylvania corporation and a statewide association representing Pennsylvania's community action agencies that provide anti-poverty planning and community development activities for low income communities and services to individuals and families. .

2. CAAP has been directly involved in assuring that low income persons' utility costs are contained through counseling, advice, payment assistance and energy conservation measures.

3. CAAP intervened in this proceeding to address, on behalf of its clients, the low-income portion of the Company's Plan.

4. CAAP submitted the direct testimony of Susan Moore-Wychulis (CAAP Statement No. 1).

5. Mrs. Moore-Wychulis' testimony addressed in large part the need for the company's plan to target and market energy saving measures to their low-income customers.

6. CAAP contended in its testimony that the plan as proposed did not specifically

target low-income customers with direst energy saving measures. Further, CAAP argued that low-income customers who happen to take advantage of general residential programs should be tracked and referred to the company's low-income programs under its Act 129 plan and universal service program.

7. In settlement, the Companies have agreed to directly target low-income customers for direct energy saving measures, to increase the number of direct measures offered to those customers and to refer low-income customers to its Act 129 and universal service low-income programs.

8. CAAP believes that the settlements as they relate to the above issues addresses its concerns and will provide a substantial benefit to low income customers by providing additional conservation measures to those customers that will result in lower energy use and utility costs for those vulnerable customers. Further, those additional measures that promote conservation will benefit the public generally.

9. CAAP did not submit testimony relative to other issues presented in this case so this statement in support will not address those issues.

WHEREFORE, CAAP respectfully requests that the partial settlement be approved.

JOSEPH L. VULLO, ESQUIRE
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
(570) 288-6441
e-mail: jlvullo@aol.com
Attorney for Community Action Association of Pennsylvania

Appendix E

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334399

CITIZEN POWER, INC. STATEMENT IN SUPPORT OF JOINT PETITION FOR PARTIAL SETTLEMENT

Citizen Power, Inc. ("Citizen Power"), a signatory to the proposed Joint Petition for Partial Settlement ("Settlement") in the above-captioned docket, files this Statement in Support of the terms and conditions of the Settlement reached in this matter.

I. BACKGROUND

On November 15, 2012, Duquesne Light Company ("Duquesne" or "Duquesne Light") filed the above-captioned Petition with the Pennsylvania Public Utility Commission ("Commission") pursuant to the Implementation Order the Commission issued in Docket Nos. M-2012-2289411, M-2008-2069887. This Petition included a copy of Duquesne's Phase II Energy Efficiency and Conservation Plan ("Phase II EE&C Plan") and the Direct Testimony of its witnesses, David Defide and William V. Pfrommer.

On December 1, 2012, a notice of Duquesne Light's filing was published in the *Pennsylvania Bulletin* establishing that comments on the Phase II EE&C Plan were due on December 21, 2012. On December 5, 2012, the Office of Small Business Advocate ("OSBA") filed a Notice of Intervention and Public Statement. On December 6, 2012, the Office of Consumer Advocate

("OCA") filed a Notice of Intervention and Public Statement. Petitions to Intervene were filed on December 6, 2012 by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") and the Community Action Association of Pennsylvania ("CAAP"); and by the Duquesne Industrial Intervenors ("DII") and Citizen Power on December 7, 2012.

On December 6, 2012, a prehearing conference was held by Administrative Law Judge Dennis J. Buckley (the "ALJ"). Counsel for Duquesne Light, Citizen Power, OCA, OSBA, CAUSE-PA, DII, and CAAP were present. On December 12, 2012, the ALJ issued the Second Prehearing Order granting the Petitions to Intervene of all the participating parties. On December 13, 2012, Duquesne filed a Motion for Protective Order which was granted that same day.

On December 21, 2012, OCA, DII, ACTION-Housing Pittsburgh, ReEnergize Pittsburgh Coalition, and Comverge, Inc. ("Comverge") all filed comments. Also, on that date, Comverge filed a Petition to Intervene. On January 3, 2013, direct testimony was presented by OCA, CAUSE-PA, and CAAP. On January 9, 2013, the ALJ issued the Fourth Prehearing Order, indicating that the comments filed on December 21, 2012 would not be part of the certified record in this proceeding. On January 14, 2013, the ALJ issued the Fifth Prehearing Order which granted Comverge's Petition to Intervene. On January 15, 2013, Duquesne distributed rebuttal testimony to the active parties in the proceeding. Administrative Law Judge Dennis J. Buckley held an evidentiary hearing on January 18, 2013. During this hearing, the Joint Petitioners indicated that they had reached a settlement in principle of all the issues except those raised by DII. Duquesne Light's EE&C Plan, testimony and exhibits and the testimony and exhibits filed by other parties during the course of the proceeding were entered into the record.

II. TERMS AND SETTLEMENT

A. Low-Income Programs and Participation

Citizen Power believes that the additional terms related to low-income programs and participation (Settlement ¶¶ 16-21) address many of the issues identified by OCA, CAUSE-PA, and CAAP in their direct testimony and significantly improve Duquesne Light's EE&C Plan. First, the issue of accurate monitoring of low-income customer participation in Duquesne's Residential Energy Efficiency Program, Residential Appliance Recycling Program, School Energy Pledge Program, and Residential Home Energy Reporting Programs, as well as the other programs not specifically targeted at low-income households, has been addressed by Duquesne commitment to track low-income savings through its Program Management and Reporting Systems (Settlement ¶17). In addition, Duquesne will determine the low-income participation in their up-stream buy down program through a survey method approved by the Statewide Evaluator (Settlement ¶17). These changes represent a marked improvement over the original estimation methodology and address concerns regarding the possibility of inaccurate counting of low-income household savings.

Second, the proposal in Paragraph 18, referring low-income customers participating in their general residential programs to the Act 129 low-income programs, benefits both the customer by placing them in programs more suited to their situation and the overall Phase II EE&C Plan by properly allocating both costs and benefits between different programs. In addition, by alerting non-participating low-income households to Duquesne's Universal Service programs and Low-Income Home Energy Assistance Program, the number of low-income customers who are receiving assistance can potentially be increased.

Third, the inclusion of specific efficiency measures in Paragraph 19 addresses the concern that too many of the programs were focused on education. While Citizen Power agrees that education is an important aspect of any Act 129 EE&C Plan, we believe that the inclusion of these specific measures helps balance the approach used by Duquesne to address the low-income segment of their customer base and strengthens the overall Phase II EE&C Plan.

Finally, Duquesne's commitment in Paragraph 21 of the Settlement to coordinate with natural gas distribution companies and community based organizations to provide low income services benefits both low-income households by providing them with a comprehensive menu of low income services and also potentially increases the efficiency of the installation of measures.

B. EE&C Plan Implementation Issues

Duquesne Light's commitment to hold at least 2 stakeholder meetings per year in order to review plan progress and additional meetings if there are significant changes to the EE&C Plan represents a reasonable balance between providing necessary information to stakeholders and limiting the cost of administering the EE&C Plan (Settlement ¶22). Furthermore, the collaborative aimed at improving the amount of savings obtained from non-lighting measures has the potential of further refining the EE&C Plan through the inclusion of measures that have been suggested and vetted by interested stakeholders (Settlement ¶24). In our experience, collaborative meetings are uniquely suited to exploring the potentialities of newer technologies.

C. Proposed Improvements to EE&C Plan

The issue of including new home construction measures in the Phase II EE&C Plan was addressed by OCA's witness David G. Hill on page 24 of his direct testimony. In response, Duquesne has committed to monitor the new home construction market and explore the opportunity for introducing a residential new home program (Settlement ¶26). We believe this is a reasonable compromise which allows for the possibility of creating measures for the residential new home market.

III. CONCLUSION

As indicated by this Statement in Support, Citizen Power believes that the Joint Petition for Partial Settlement addresses many of the fundamental concerns raised in response to Duquesne Light's Phase II EE&C Plan. Citizen Power therefore submits that the Joint Petition for Partial Settlement is in the public interest and requests that it be approved by the Commission.

Respectfully submitted,

Theodore S. Robinson, Esquire
PA Attorney ID No. 203852

Citizen Power
2121 Murray Avenue
Pittsburgh, PA 15217

Phone: 412-421-7029
Fax: 412-421-6162
Email: robinson@citizenpower.com

Counsel for Citizen Power

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Appendix F

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF DUQUESNE LIGHT COMPANY FOR APPROVAL OF ITS ACT 129 PHASE II ENERGY EFFICIENCY AND CONSERVATION PLAN	: : : : :	**Docket No. M-2012-2334399**

COMVERGE, INC.
STATEMENT IN SUPPORT OF SETTLEMENT

Comverge, Inc. ("Comverge") submits this Statement in Support of Pennsylvania Public Utility Commission ("Commission") approval of the Settlement ("Settlement") in the above-captioned docket to the Act 129 Phase II Energy Efficiency and Conservation ("EE&C") Plan ("Phase II Plan" or "Plan") of Duquesne Light Company ("Duquesne" or "Company").

Comverge is one of the nation's leading providers of energy management products and services. Comverge has been an active Conservation Service Provider ("CSP") in Pennsylvania[1] and has served several electric distribution companies ("EDCs") who are in the Act 129 Phase II Programs. Comverge has provided complex energy management programs and related services to small business, large commercial, and industrial customers throughout Pennsylvania, including those customers in Duquesne's service territory.

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1 Comverge is registered as a CSP on the PUC's Registry of CSPs. *Petition of Comverge, Inc.*, Docket No. A-2009-2113604, Secretarial Letter dated Nov. 3, 2011 approving the company's application to re-register as a Conservation Service Provider. Comverge's wholly owned subsidiary, Enerwise Global Technologies, is also registered as a CSP. *Petition of Enerwise Global Technologies, Inc.*, Docket No. A-2012-2297625, Secretarial Letter dated April 11, 2012 approving the company's application to register as a Conservation Service Provider.

Comverge supports the use of combined heat and power ("CHP") technologies for all Pennsylvania EDCs as a cost effective, energy efficient use that supports the goals and objectives of Act 129.[2] CHP technologies generate electric and thermal energy from a single fuel source, e.g., natural gas. Customers with steady base load electricity usage coupled with steady thermal demand can realize significant efficiencies and savings by incorporating CHP. Such projects provide stability in reliability planning, capture significant environmental benefits, and avoid waste in a cost effective manner.

Comverge supports the Settlement and recommends that it be approved. The Settlement addresses Comverge's concerns regarding Duquesne's programs to develop and implement CHP technologies in their service territory by revising the program structure to specific permit CHP projects with a Total Resource Cost ("TRC") score above 1.0, as calculated in accordance with the Technical Reference Manual ("TRM") standards or other Commission guidelines or directives.

I. BACKGROUND

Duquesne did not include CHP as an energy efficiency and conservation measure in any significant way in its Phase II EE&C Plan.

Comverge averred that that Duquesne's Phase II EE&C Plan should include CHP as a major energy efficiency measure. Comverge argued that CHP projects would be hindered by the lack of any details, such as a TRC score, related to CHP projects. Comverge was further concerned that the lack of details in the Phase II Plan could turn into a future unwillingness to provide any incentives for CHP projects.

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2 Comverge Petition to Intervene at 3.

II. THE SETTLEMENT

In the Settlement, Duquesne agrees to modify its Phase II EE&C Plan as follows:

> Duquesne Light will evaluate requests for custom measure rebates on the case-by-case basis to determine cost effectiveness and energy savings potential. Measures, including combined heat and power ("CHP") projects, may be approved if found to be cost effective as indicated by the Total Resource Cost ("TRC") score above 1.0, as calculated in accordance with the Technical Reference Manual ("TRM") standards.

Comverge submits that the Settlement should be adopted. By agreeing to modify its Phase II Plans with respect to CHP projects, Duquesne is reasonably addressing the concerns raised by Comverge regarding the development and implementation of CHP programs in its service territory. The proposed modification sets a reasonable TRC threshold for CHP projects. The lack of specific reasonable TRC threshold would have created a false impression to customers that CHP projects were not permissible in Duquesne's service territory. Importantly, the TRC threshold treats CHP projects in an equivalent manner to other measures that would be eligible for funding under Duquesne's Phase II EE&C Plans. These changes would not result in a budget impact, and will simply induce more CHP projects to be considered and ultimately developed in Duquesne's service territory. Finally, this Settlement language with regard to CHP is consistent with similar EE&C Phase II Plans and/or settlements for PECO Energy Company and the First Energy Companies.

III. CONCLUSION

For the reasons stated above, Comverge submits that the Settlement is a reasonable resolution of the concerns raised by Comverge regarding the development and implementation of CHP programs in Duquesne's service territory, and should be granted.

Respectfully submitted,

Jeffrey J. Morton, Esquire
Attorney I.D. No. 39241
Carl R. Shultz, Esquire
Attorney I.D. No. 70328
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
717.237.6000
Fax 717.237.6019

Date: January 28, 2013

Attorneys for Comverge, Inc.