

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2010-2179522
	:	
Duquesne Light Company	:	

**PETITION TO INTERVENE OF CITIZEN POWER, INC.**

**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Citizen Power, Inc. (“Citizen Power”), by and through its attorney, Theodore S. Robinson, hereby Petitions to Intervene in the above-captioned proceeding pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code §§ 5.71-5.76, and in support thereof states as follows:

**I. BACKGROUND**

1. Duquesne Light Company (“Duquesne” or “Company”) provides electric service to around 588,000 customers in Allegheny and Beaver counties.<sup>1</sup>

2. On July 23, 2010, Duquesne filed Proposed Supplement 35 to Duquesne Light Company’s Tariff Electric PA PUC No. 24.

3. On September 16, 2010, the Commission ordered that an investigation be implemented “to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 35 to Tariff Electric-Pa. P.U.C. No. 24”

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<sup>1</sup> Duquesne Light Statement No. 5 at 3.

and assigned the case “to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary”.<sup>2</sup>

4. Citizen Power is a non-profit, 501(c)(3), public policy research, education, and advocacy organization incorporated under the laws of the Commonwealth of Pennsylvania with its principal place of business located at 2121 Murray Avenue, Pittsburgh, Pennsylvania 15217.

## II. STANDARDS FOR INTERVENTION

5. The Commission’s regulations at 52 Pa. Code §§ 5.71-5.76 establish the standards and requirements for a party to intervene in an action before the Commission. Section 5.72 sets forth the eligibility requirements for a party to intervene, which provides, in pertinent part, as follows:

(a) Persons. A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

(1) A right conferred by statute of the United States or of the Commonwealth.

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

(3) Another interest of such nature that participation of the petitioner may be in the public interest.

52 Pa. Code § 5.72. The eligibility requirements for an interested party to intervene in an action before the Commission is less strict and easier to satisfy than the common law standard for intervention. *Application of Metropolitan Edison Co. for Approval to Construct an Electric Generating Unit Fueled by Natural Gas*, Docket No. A-110300, 1994 Pa. PUC LEXIS 52 (Order

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<sup>2</sup> September 16, 2010 Order in Docket No. R-2010-2179522.

entered Feb. 25, 1994) (citing *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975)).

### **III. FACTS SUPPORTING INTERVENTION**

6. David Hughes is the Executive Director of Citizen Power and is a customer of Duquesne Light. William H. Carlson, Mark A. Scott, and Curtis Williams are members of the Citizen Power Board of Directors and are customers of Duquesne Light.

7. The principal place of business of Citizen Power is 2121 Murray Avenue, Pittsburgh, Pennsylvania 15217. Citizen Power is a customer of Duquesne Light at this location.

8. Citizen Power devotes almost all of its resources to consumer and environmental protections issues. Citizen Power has participated in numerous proceedings regarding electricity market deregulation, renewable resource standards, energy efficiency, and customer rates in Pennsylvania and Ohio and at the Federal Energy Regulatory Commission ("FERC"). Citizen Power has been a statewide advocate for lower energy costs and increased use of renewable energy and energy-efficiency technologies.

9. Citizen Power has been a participant on behalf of customers in previous Duquesne Light proceedings before the Commission, including Docket No. P-2009-2135500 (Duquesne's Default Service Plan), Docket No. M-2009-2123948 (Duquesne's Smart Meter Plan), Docket No. P-00072247 (Duquesne's "POLR IV" proceeding), Docket No. P-00032071 (Duquesne's "POLR III" proceeding), Docket No. R-00974104 (Duquesne's "POLR II" Settlement proceeding), Docket No. P-00021969 (regarding Duquesne's petition to modify its "POLR II" Plan in connection with the Company's intention to join PJM West), Docket No. P-00032071

(relating to modification of Duquesne's POLR II rates), and Docket No. R-00974104

(Duquesne's Restructuring Plan).

10. Duquesne's filing proposes to increase electric distribution service revenue by \$87.3 million per year, which according to the Testimony of Mr. Eichenmiller would allow the Company an opportunity to earn an overall rate of return of 8.78% and an 11.25% return on common equity upon the distribution rate base of \$1.440 billion.<sup>3</sup> According to the testimony of Mr. Crowley, the total revenue requirement for the Pennsylvania jurisdiction is \$473.6 million.<sup>4</sup> The Company believes that the 11.25% return on equity is justified because of the Company's risk profile and the "exemplary performance" of the Company.<sup>5</sup>

11. According to Duquesne, a significant reason for the amount of the proposed rate increase is the fact that the pension fund is significantly underfunded as a result of the recent downturn in the stock market. Duquesne is required to pay \$100 million dollars to the pension fund in the future test year alone to comply with the Pension Protection Act.<sup>6</sup>

12. Assuming customer shopping, Duquesne's proposed rate changes are estimated to increase the distribution revenue for rate schedules RS, RH and RA by 26.3%, 42.0% and 43.2% respectively. The total revenue increase for rate schedules RS, RH and RA are estimated to be 11.4%, 13.1%, and 12.8% respectively.<sup>7</sup>

13. If the Company's request is approved, the total bill for a residential customer using 600 kWh per month would increase 9.38%, the total bill for a commercial customer using

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<sup>3</sup> Duquesne Light Company Statement No. 1 at 8.

<sup>4</sup> Duquesne Light Company Statement No. 7 at 10.

<sup>5</sup> Duquesne Light Company Statement No. 3 at 24.

<sup>6</sup> Duquesne Light Company Statement No. 1 at 15.

<sup>7</sup> Duquesne Light Company Exhibit 2, Schedule D-5D at 3.

10,000 kWh per month would increase 6.14%, and the total bill for an industrial customer using 200,000 kWh per month would increase 2.98%.<sup>8</sup>

14. The fixed customer monthly charge for residential customers would be increased from \$7.00 per month to \$8.50 per month.<sup>9</sup> Increases in fixed charges can potentially reduce incentives for customers to conserve energy.

15. Duquesne is also proposing to recover costs for its Universal Service and Energy Conservation Programs through a Universal Service Charge Rider, a flat energy charge per kWh applicable to only non-customer assistance program residential customers.<sup>10</sup>

#### **IV. GROUNDS FOR INTERVENTION**

16. Citizen Power has a direct interest in the outcome of this proceeding and meets the standards for intervention set forth in 52 Pa. Code § 5.72(a)(2). Specifically, as a customer of Duquesne Light, Citizen Power has an interest that the Proposed Supplement No. 35 does not capriciously impact retail rates paid by Citizen Power.

17. The Commission's regulation also provides that a person who has "[a]nother interest of such nature that participation of the petitioner may be in the public interest" may intervene in the proceeding. 52 Pa. Code § 5.72(a)(3). As both a consumer and environmental advocacy organization, Citizen Power has a unique perspective that cannot be represented by any other party in this proceeding. Citizen Power submits that this unique interest coincides with the public interest and should be considered by the Commission.

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<sup>8</sup> Duquesne Light Company Rate Increase Filing Cover Letter at 1.

<sup>9</sup> Duquesne Light Company Statement No. 14 at 7.

<sup>10</sup> Duquesne Light Company Statement No. 14 at 8.

18. The interests of Citizen Power are not adequately represented by another party. The other parties in this proceeding are not authorized and do not have standing to fully represent the interests of Citizen Power.

19. Based on the foregoing, Citizen Power has substantial interests that will be directly and immediately affected by the Commission's disposition of the Applicants' Application. Therefore, this Petition to Intervene should be granted.

**V. POSITION OF CITIZEN POWER, INC.**

20. Citizen Power believes that this proposed distribution rate increase needs to be fully investigated by the Commission. Citizen Power is specifically concerned about the impact of Proposed Supplement No. 35 upon residential rates, the reasonableness of the proposed rate increases, and the desperate impacts of the proposed rate increase upon different customer classes. In addition, Citizen Power is concerned that an increase in fixed charges for residential customers may discourage energy conservation.

21. At this time, Citizen Power continues to evaluate its position on the proposed rate increase and will refine its position based upon further study of the plan, review of discovery and additional input from other parties. Citizen Power reserves the right to raise other issues as necessary and appropriate during the course of the proceeding and to respond to issues raised by other parties.

**VI. COUNSEL**

22. Citizen Power will be represented in this proceeding by the following counsel:

Theodore S. Robinson, Esq.  
Citizen Power

Phone: 412-421-7029  
Fax: 412-421-6162

2121 Murray Avenue  
Pittsburgh, PA 15217

Email: [robinson@citizenpower.com](mailto:robinson@citizenpower.com)

23. Counsel consents to the service of documents by electronic mail to [robinson@citizenpower.com](mailto:robinson@citizenpower.com), as provided in 52 Pa. Code § 1.54(b)(3).

WHEREFORE, for all of the foregoing reasons, Citizen Power believes that its intervention in this proceeding satisfies the legal standards for intervention and will serve the public interest. Citizen Power respectfully requests that the Commission grant this Petition to Intervene in the above-captioned matter and give it full party status in this proceeding.

Respectfully submitted,



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

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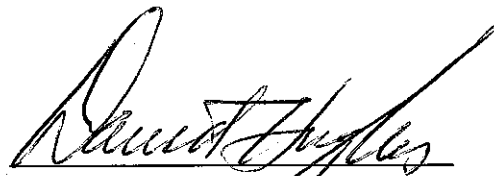
Date: September 21, 2010

Counsel for Citizen Power

**VERIFICATION**

I, David Hughes, hereby state that the facts set forth above in the Petition to Intervene are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Dated:           September 21, 2010

A handwritten signature in black ink, appearing to read "David Hughes", written over a horizontal line.

David Hughes  
Executive Director  
Citizen Power  
2121 Murray Avenue  
Pittsburgh, PA 15217



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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the Petition to Intervene of Citizen Power, Inc. upon the participants listed below, in accordance with the requirements of § 1.54 (relating to service by a participant).

**VIA FIRST CLASS MAIL**

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Dated this 21<sup>st</sup> day of September, 2010

By:   
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