

**Comments of Morgan K. O'Brien
Duquesne Light Company**

**House of Representatives
Consumer Affairs Committee
Harrisburg, PA
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Chairman Preston, Chairman Godshall and members of the Committee, good morning. I am Morgan K. O'Brien, Chairman and CEO of Duquesne Light Company. I think I can offer you a unique perspective of these issues because, of all the distinguished speakers addressing you today, I am the only one who works for a utility that is not a major player in the generation market. I am also the only one who works for a company where de-regulation has worked. That is, rate caps have come off and customers' rates have gone down. Duquesne Light has been without rate caps for over five years, and our rates to residential and small business customers are lower today than they were fifteen years ago, and they will continue to be lower through the end of 2010, without any special legislation to aid in that transition or any need to phase in rate hikes to avoid price shock

I have studied the legislation before you and can tell you, unequivocally, if this passes in its current form, customers in Allegheny and Beaver Counties WILL SEE their electric bills increase significantly. This is absolutely a sure thing.

Here's why: for the past 5 years, Duquesne Light has kept its customers' rates low by entering into multi-year, arms-length contracts with electric suppliers. We have found suppliers who are long on generation and have been able to negotiate

prices that are lower than they were during the time of regulation. Our customers have been offered fixed, and therefore stable rates. This legislation will put limitations on these contracts to such an extent that we would be unable to procure energy for our residential and small business customers through this method.

I understand the knee-jerk rationale. Pricing energy through auctions (as called for in this legislation and in current PUC regulations) intuitively seems like the best way to get the lowest price for electricity. However, you only have to look at what has happened in this state to see that low prices are not what have resulted so far through the use of auctions. The reality of the situation in Pennsylvania is that many of the generation owners are affiliates of the regulated utilities. As Senator Boscola recently noted, the generation companies and the unregulated affiliates of the utilities are having record profits and are publicly predicting higher earnings in the future. There's a reason for that – the regulated utility's customers are paying record prices because utility affiliates are "winning" these auctions. Unfortunately, the ratepayers for those utilities are the losers.

Duquesne Light owns no generation and therefore has no advantage if one generator or another provides the electricity to Duquesne Light's customers. All we want to do is deal with a reliable supplier who gives us a reasonable price. So, having no skin in the game, we found that bilateral long-term contracts for all our customers got us a fair price.

I believe I am the only party you will hear today supporting the use of bilateral contracts as a means of procuring energy. I am also the only utility today testifying

that doesn't have an affiliate company that can exercise any market power influence over the wholesale electric marketplace. Commissioner Cawley hates this approach because it's not transparent as holding an auction or an RFP. But I ask what good is transparency when it becomes transparent that there is no competitive market. So as the only utility company that has no interest in how high electric generation prices can get to, I am asking for the right to use a methodology that works. When we define working as "delivering the lowest price possible to consumers."

Although Duquesne does not believe auctions produce the fairest, lowest, price, we are not here today asking you to prohibit auctions. We are not saying, like others will, that our way is the only way. Maybe auctions will work under the right circumstances. We are also not asking you to require bilateral contracts as the only means to procure energy. All we are asking is that you allow for the continued and unlimited use of bilateral contracts for those utilities wishing to use them and who can demonstrate that the price obtained is fair. All we are asking is that you not close the door on the ONLY procurement method that has been shown to work here in Pennsylvania. This legislation would not close that door; it slams the door in the faces of Duquesne Light customers.

In her press conference, Senator Boscola said, "the competitive market that was promised to the people of Pennsylvania is no where in sight". We would respectfully suggest that the Senator look to Duquesne Light's territory to see that it is working there. But, we understand the Senator's frustrations. It really is nowhere in sight anywhere else in the state. And if this legislation passes, the only thing that will be in sight are higher and higher bills for your constituents.

We've attached some specific comment to the propose legislation in my testimony as an addendum.

Thank you. I will be glad to answer questions

ADDENDUM

First and foremost, Duquesne commends the legislation in House Bill 2201 for recognizing that procuring default service supply using all available competitive processes, including bilateral, long-term contracts is good for customers. Utilization of bilateral contracts has been the hallmark of Duquesne's procurement philosophy since 2002 and has resulted in rates lower than those obtained by auctions and Requests for Proposals. In addition, I commend the legislation for recognizing the importance of providing customers with electric service rate stability and certainty. In addition to any voluntary rates offered to its customers, such as time-of-use rate, the electric distribution company or Commission-approved alternative supplier shall offer all customers a fixed rate that shall change no more frequently than on an annual basis. To those customers who want to help lead the charge with conservation and demand management, we will gladly offer them the pricing they require. But the vast majority of our residential and small customers are not sophisticated buyers of commodities and they want and need the prices we offer to be the lowest they can and to protect them from unnecessary volatility.

However, I ask you to consider making some changes to these pieces of legislation that will benefit consumers:

House Bill 2201 (HB 2201)

1. Delete the artificial limitation on the 20% of the amount of default service that can be acquired through long-term contracts. If the objective is to benefit the consumer through a portfolio that provides the lowest

reasonable rates on a long-term basis, then legislating a limit on this type of procurement could be detrimental to consumers. Requiring the default service provider to show that the default service plan is appropriate and meets the criteria of "lowest reasonable rates on a long-term basis" and requiring the Commission to approve default service procured through competitive procurement processes, is sufficient. This body, as well as the Senate and the Governor, signed House Bill 1530 (HB 1530) into law last July 2007, as a means of providing long-term stable and competitive energy prices to large manufacturing employers to ensure that Pennsylvania would be competitive with other states and not lose employment and critical industry. It is Duquesne's position that if those contracts are beneficial to the largest consumers, they should be available to all consumers, if bilateral, long-term contracts can provide the lowest reasonable rates on a long-term basis.

2. Duquesne believes that the electric distribution company (EDC) should provide the tools, programs and education for those customers who want to lead in the areas of conservation, energy efficiency and demand management. Duquesne will gladly offer them the tools and pricing options they require. However, to impose equipment, rate structures and costs on consumers, who do not want or believe they can adjust to these sophisticated systems, does not seem to Duquesne to be the right kind of public policy. Under Section 2807, paragraph 16 (page 19) the language requires technology to be imposed on consumers. Duquesne recommends that the identical language be used but substitute "offer"

instead of "furnish" in line 9 of page 19. This policy puts the decision in the hands of the consumer, after the enabling legislation, regulations and commitment of the public utility has been established.

House Bill 2200 (HB 2200)

More than any of my counterparts, because of my lack of ownership in generation assets, we are a big believer in the importance in conservation and demand management. Duquesne believes that the intent of this legislation, to provide procedures and incentives encouraging cost effective energy efficiency and demand-side management responses is good public policy.

If you are truly serious about managing how Pennsylvania meets its energy needs, then you have to provide reasonable yet aggressive targets and both a carrot and a stick in incenting the state's public utilities, energy efficiency and demand-side response contractors, who can make this achievable. Such incentives will provide encouragements to exceed the targets that will give the bill not only a balanced tone, but it will provide the necessary financial benefits that have been proven successful in every area of American business.

For 125 years Duquesne has served the consumers of southwest Pennsylvania and we believe we have a responsibility and a unique understanding of our consumers, to achieve the results necessary to fulfill this legislation. Of course there are experts in specific fields of energy applications and processes that Duquesne will need to tap to provide a quality, cost effective energy efficiency or demand response product to our customers.

But it does not seem to be good public policy to establish another government run program, with a government administrator, third party vendors and a process whereby costs get passed through the local public utility, who has no responsibility for or control over those costs. Again this does not make good public policy sense and may not benefit consumers. It may only create programs and an industry to support those programs with no accountability for the results and costs of those programs.

Duquesne respectfully recommends that HB 2200 be reconsidered, that the targets be made reasonable and achievable, that incentives as well as penalties be developed to ensure success and that the public utilities in Pennsylvania be accountable and responsible for working management.

