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July 20, 2021

VIA ELECTRONIC FILING

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201
400 North Street
Harrisburg, PA 17120

**Re: Proposed Rulemaking for Diversity Reporting of Major Jurisdictional Utilities,
L-2020-3017284**

Dear Secretary Chiavetta:

Enclosed for filing please find Duquesne Light Company's Comments in the above referenced proceeding.

If you have any questions regarding the information contained in this filing, please feel free to contact me or Chris Johnson at 412-393-6496 or cljohnson@duqlight.com.

Sincerely,

Lindsay A. Baxter
Manager, Regulatory and Clean Energy Strategy

Enclosure

cc: Joseph P. Cardinale, Jr., Assistant Counsel, Law Bureau
Rhonda L. Daviston, Assistant Counsel, Law Bureau

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Rulemaking for Diversity Reporting of Major Jurisdictional Utilities : L-2020-3017284

**COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. INTRODUCTION

On December 17, 2020, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) issued a *Proposed Rulemaking for Diversity Reporting of Major Jurisdictional Utilities*. This Notice of Propose Rulemaking (“NOPR”), follows an update to the Commission’s *Policy Statement on Diversity Reporting of Major Jurisdictional Utilities*, for which a Final Order was issued December 3, 2020 at Docket No. M-2020-3018089. The NOPR would codify the recommendations in the Diversity Policy Statement at 52 Pa. Code Chapter 51 as a regulatory obligation.

The NOPR provided for comments to be filed within forty-five (45) days of publication in the *Pennsylvania Bulletin*. The *Proposed Rulemaking for Diversity Reporting of Major Jurisdictional Utilities* was published June 5, 2021, 51 Pa.B. 3134. Pursuant to the published schedule, Duquesne Light Company (“Duquesne Light” or “Company”) hereby submits these comments for consideration.

II. COMMENTS

The PUC first adopted its *Policy Statement on Diversity at Major Jurisdictional Utility Companies* on March 24, 1995, 52 Pa. Code §§ 69.801-69.809. This policy statement, which was updated in December 2020, encourages jurisdictional utilities to report to the Commission, on an

annual basis, goals and progress towards supporting diversity in procurement and employment practices. Through this NOPR, the Commission proposes to make this reporting a regulatory requirement. Duquesne Light has consistently filed this report annually, following the guidance in the Policy Statement, and thus is not opposed to a new regulation requiring the same.

Duquesne Light is deeply committed to diversity and inclusion and is supportive of efforts to measure, track, and report diversity-related metrics. The Company offers the following minimal comments to further refine the NOPR.

A. Utility reports should be filed confidentially.

It is the opinion of Duquesne Light that information regarding employees should be filed confidentially. This practice would be consistent with the treatment of employment data in other circumstances. For example, federal reporting by employers via the EEO-1 Form is not regularly made public. The Office of Federal Contract Compliance Program reviews any requests for this information for a specific employer via a Freedom of Information Act request on a case-by-case basis and provides the employer an opportunity to designate the information as confidential or proprietary.¹

Further, confidential reporting encourages openness. Regulated entities will be more willing to share not only successes but also challenges when this information is protected from public scrutiny. Additionally, as utilities build their internal diversity and inclusion programs, they need time to communicate data and benchmarking internally with their workforce, prior to making it available to the general public.

¹ Freedom of Information Act (FOIA) Frequently Asked Questions. U.S. Department of Labor website. (www.dol.gov/agencies/ofccp/faqs/foia) Accessed June 9, 2021.

B. Reporting requirements regarding gender identity should be expanded for inclusivity.

Duquesne Light is supportive of the Commission’s efforts to be inclusive of all gender and sexual identities through the expansion of its definition of LGBTQ in the 2020 updates to the Policy Statement. The Company notes, however, that the “Demographic Composition of Workforce” reporting form in Appendix A unintentionally reinforces that all employees will identify as either “male” or “female.” The Company suggests that the final form be amended to add a third column for those who do not self-identify as either male or female. Alternatively, the form could be footnoted to explicitly state that the two gender columns may not be inclusive of all employees under each job category. Language and word choice matter. Including only two options of gender unintentionally signals that these are the only options, potentially alienating those who do not identify as either male or female.

C. Reporting of diverse-owned suppliers should exclude procurement for default service.

Item eight under Section 51.15 “Diversity Reporting Requirement” of the NOPR requires “A brief summary of diverse-owned businesses that the major jurisdictional utility contracts with for goods and services. Include a percentage of dollars spent with diverse-owned businesses versus non-diverse businesses.” Duquesne Light recommends that this item explicitly exclude default service supply. Such an exclusion is consistent with the Policy Statement, which, under § 69.806, excludes purchased power.

Electric distribution companies (EDCs) have limited discretion regarding default service suppliers. These suppliers are selected following the requirements of 52 Pa. Code § 54.186, which include, among other requirements, an emphasis on the “least cost to customers over time.” Perhaps more significantly, the sheer size of this purchase would overshadow diversity in

the procurement of professional services, equipment, and materials. By excluding default service supply, more focus can be placed on areas of procurement for which the utility has more direct control, and which arguably can have greater impact in the local community it serves.

D. The Commission should encourage and facilitate best practice sharing.

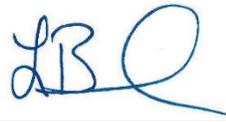
Finally, Duquesne Light reiterates its recommendation² that the Commission should encourage best practice sharing. The Commission's December 3, 2020 Order did not directly address this recommendation. While the Company feels strongly that reports filed should be confidential, as the holder of this information, the Commission is uniquely situated to facilitate best practice sharing. For example, the Commission could host an annual meeting of regulated utilities to discuss, with company permission, what it identifies as best practices, successes, or challenges that could be informative to the industry. While there is benefit to compiling and reporting the data annually, the potential benefit can be enhanced when some of this information is shared across the industry, building a body of knowledge related to diversity and inclusion in Pennsylvania utilities.

² Comments of Duquesne Light Company, Amended Policy Statement on Diversity at Major Jurisdictional Utilities, Docket No. M-2020-3018089, filed August 31, 2020.

III. CONCLUSION

Duquesne Light Company is committed to fostering a workplace where employees feel engaged, included, respected, and empowered. Additionally, the Company believes its supplier base should reflect the diversity of the communities it service. Duquesne Light is supportive of the Commission's efforts regarding diversity reporting and looks forward to continued discussion of the role the utility industry can play in this critical area.

Respectfully submitted,



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