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September 29, 1997

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William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C.

Re: Corrections to "Comments Of Duquesne Light Company" for Docket No. 97-151

Dear Mr. Caton:

I am enclosing the original and six copies of a revised Table of Contents and four other corrected pages (pages 13, 37, 41, and 44) to the Comments Of Duquesne Light Company filed last Friday with respect to Docket No. 97-151. Please insert the corrected pages in the Duquesne's Comments filed last Friday. I am providing by copy of this letter a complete copy of Duquesne's comments, incorporating the corrected pages, to the Commission's copy contractor, International Transcription Services, Inc., and the Cable Services Bureau.

Sincerely,

Paul Gaukler

Paul A. Gaukler

Enclosures
cc: The Cable Services Bureau
International Transcription Services

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Duquesne Light Company
September 26, 1997

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B. Any Formulaic Rate Methodology Under Section 224(e) Should Be Based On Forward-Looking Economic Costs

If the Commission were to adopt a formulaic rate methodology, such a methodology must be based on forward-looking costs -- not embedded historical costs — in order to be consistent with Congress' pro-competitive objectives embodied in the 1996 Telecommunications Act. The Commission in its 1996 Interconnection Order expressly recognized that "a pricing methodology based on forward-looking economic costs best replicates . . . the conditions of a competitive market."[10] As the Commission observed, "[i]n dynamic competitive markets, firms take action based not on embedded costs, but on the relationship between market-determined prices and forward-looking economic costs."[11] Chairman Hundt has similarly observed that "[o]nly forward-looking cost concepts are consistent with a competitive market."[12]

Thus, as recognized by the Commission, historic costs have no relationship to competitive market prices and the pro-competitive objectives of the 1996 Telecommunications Act. Embedded, historical costs neither reflect the cost faced by the telecommunications carrier seeking entry by duplicating a utility's facilities or by a

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[10] Interconnection Order, ¶ 679. The Commission's Interconnection Order was reversed on jurisdictional grounds by the court in Iowa Utilities Board v. FCC, No. 96-3321, 1997 U.S. App. LEXIS 18183 (8th Cir. July 18, 1997). The court's decision did not, however, address or evaluate the merits of the forward-looking methodology adopted by the Commission in the Order.

[11] Id. at ¶ 620; accord International Settlement Rates, Report and Order, FCC 97-280, IB Docket 96-261 (August 18, 1997) ("Settlement Rates Order"), ¶41.

[12] Hundt September 17, 1996 Speech at #10.

> two-thirds of the costs of providing space other than usable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities.

The formula proposed by the Commission is as follows:

$$2/3 \times \frac{\text{Unusable Space}}{\text{Pole Height}} \times \frac{\text{Net Cost of a Bare Pole}}{\text{Number of Attachers}} \times \text{Carrying Charges}$$

The Commission requests comments on a series of issues concerning the implementation of this formula. NPRM ¶¶ 22-28.

At the outset, Duquesne believes, as discussed above, that the "net cost of a bare pole" in the above formula should be replaced by current pole replacement costs. The remainder of Duquesne's comments with respect to this formula and the questions raised by the Commission are set forth below.

1. Attaching Entities For Purposes Of Allocating The Cost Of Unusable Space

The Commission has proposed that attaching entities for determining the "number of attachers" in the above formula should include any telecommunications carrier, cable operator, local exchange company ("LEC") or government agency with attachments on the pole. NPRM ¶¶ 22-24. The Commission also tentatively concludes that an electric utility which is providing telecommunication services should be counted as a separate attaching entity for the purpose of allocating the cost of unusable space under the above formula. NPRM ¶ 22. Finally, the Commission seeks comment on whether a telecommunications carrier should be counted as a separate

The statutory exclusion of incumbent LECs from the definition of telecommunication carriers subject to rates under Section 224(e) would appear to preclude their inclusion as an attaching entity for purposes of the apportionment under Section 224(e)(2). Duquesne recognizes, however, that although incumbent LECs are not subject to rates determined in accordance with Section 224(e), they do have separate agreements with electric utilities under which they pay for their attachments. Accordingly, Duquesne believes that it would not be unreasonable for any individual utility to include them as a separate attaching entity in apportioning the cost of 2/3 of the common unusable pole space.

c. Electric Utilities Providing Telecommunication Services

As noted, the Commission has tentatively concluded that an electric utility providing telecommunication services should be counted as a separate attaching entity for allocating the cost of 2/3 of the common unusable space under Section 224(e)(2) with respect to those attachments used by the electric utility to provide telecommunications services.[33] NPRM ¶ 22. Duquesne agrees that a electric utility, or most likely a subsidiary, providing telecommunication services would probably be considered a telecommunications carrier within Section 224 and a separate attaching entity for allocating the cost of 2/3 of the unusable space under Section 224(e)(2). If

[33]Attachments used by the electric utility to provide internal communications are not used to provide telecommunications services and therefore would not result in an electric utility being considered an attaching entity for allocating the cost of 2/3 of the common unusable pole space among telecommunication entities under Section 224(e)(2).

itself should undertake a survey to gain the necessary data to develop a rebuttable assumption. NPRM ¶¶ 26-27.

Duquesne agrees with the Commission that a pole-by-pole inventory is overly burdensome and too costly to undertake. Currently, the only feasible method for Duquesne to determine the number of attaching entities for purposes of apportioning the cost for other than usable space under Section 224(e)(2) is to develop a presumptive system wide average. Conceivably, as various databases are developed, Duquesne might be able to develop different presumptions for areas that share similar characteristics, such as urban, suburban or rural areas. However, it is not currently feasible for Duquesne to develop such presumptive averages.

Duquesne does not believe that a presumptive average number of attachments per pole should be determined by a Commission nation-wide survey. Such an approach could lead to a presumptive average that could differ significantly from the individual utility systems for which the rates are to be determined.

D. Allocating The Cost Of Usable Space Under Section 224(e)(3)

To calculate the rates for usable space under Section 224(e)(3), the Commission proposes to modify its current historical-cost methodology for determining maximum rates under Section 224(d) to reflect only the cost associated with usable pole space. Thus, the Commission proposes that the rates for usable space under Section 224(e)(3) would be determined by the following formula:

$$\frac{\text{Space Occupied by Attachment}}{\text{Total Usable Space}} \times \frac{\text{Usable Space}}{\text{Pole Height}} \times \text{Net Cost of a Bare Pole} \times \text{Carrying Charge Rate}$$