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October 13, 2020

VIA ELECTRONIC FILING

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 Default Service Plan for the Period From June 1, 2021 through May 31, 2025
Docket No. P-2020-3019522

Dear Secretary Chiavetta:

Attached please find for filing Duquesne Light Company's Reply Brief in the above-referenced proceeding. Copies will be provided per the Certificate of Service.

Very truly yours,

Anthony D. Kanagy

ADK/kls
Attachment

cc: Honorable Mark A. Hoyer
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).

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Date: October 13, 2020

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of Its Default Service Plan for the Period From June 1, 2021 Through May 31, 2025	: : : :	Docket No. P-2020-3019522

REPLY BRIEF OF DUQUESNE LIGHT COMPANY

TO ADMINISTRATIVE LAW JUDGE MARK A. HOYER:

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Pennsylvania Administrative Agency Cases

Pennsylvania Statutes and Regulations

Other Authorities

I. INTRODUCTION

On October 13, 2020, the Parties in this proceeding filed a Joint Petition for Approval of Unopposed Partial Settlement. By agreement of the Parties, with approval of Administrative Law Judge Mark A. Hoyer (the "ALJ"), five issues were reserved for litigation and briefing. Main Briefs on the five issues were filed on September 30, 2020 by Duquesne Light Company ("Duquesne Light" or the "Company"); the Office of Consumer Advocate ("OCA"); The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"); Calpine Retail Holdings, LLC ("Calpine"); the Natural Resources Defense Council ("NRDC"); MAREC Action ("MAREC"); and Interstate Gas Supply, Inc., Shipley Choice LLC, NRG Energy, Inc., Vistra Energy Corp., Engie Resources LLC, WGL Energy, and Direct Energy Services, LLC (collectively, "EGS Parties"). Pursuant to the schedule approved by the ALJ, Duquesne Light files its Reply Brief on the issues reserved for litigation.

II. SUMMARY OF ARGUMENT

Duquesne Light's position on each of the issues reserved for litigation is in accord with prior Commission decisions and is supported or not opposed by most parties in this proceeding. In each instance, the Company's position is focused on benefits for customers as opposed to the interest of a particular party.

The first reserved issue concerns the EGS Parties' proposal to require the Company to collect transmission charges incurred by EGSs to serve their customers in a non-bypassable charge. This proposal has been repeatedly rejected by the Commission as impermissible rebundling under the Customer Choice Competition and Act. Further, it is opposed by Calpine, another EGS, as improperly eliminating competition.

The second reserved issue concerns the Company's proposed EV-TOU Rate Pilot. The Pilot is opposed solely by the EGS Parties based on vague and unsupported claims that it will harm

competition. The record clearly demonstrates that the Pilot will not harm competition. In fact, there is no EGS providing TOU service in the Company's service area and the EGS Parties could not identify any likely offering in the future. EGSs will also be able to offer such service if they choose. In contrast, the Company and NRDC have established that an EV-TOU rate is critical to EV adoption and will benefit EV owners and charging providers, all other customers and the public through reduced greenhouse gas emissions.

The third reserved issue concerns the Company's proposal to conduct a solicitation for a 7 MW long-term solar power purchase contract to procure about 55% of the required solar alternative energy credits of default service customers. This proposal is opposed by the EGS Parties, which oppose any long-term contract, and MAREC, which conversely proposes that a greater portion of the default service supply be acquired through long-term renewable contracts. The Company submits that its proposed pilot balances the interests of customers and the parties and will provide the Company with valuable experience with long term contacts without creating undue risk for customers.

The fourth reserved issue concerns the Company's proposed changes to the Standard Offer Program or SOP and the EGS Parties' varying proposals that the Company be required to enroll all new and moving customers with an EGS or enroll them in the SOP. As explained in the Company's Main Brief and herein, the EGS Parties' proposal would illegally deny customers their right not to be served by an EGS and must be rejected, irrespective of the approach taken.

The fifth issue concerns the Company's attempt to comply with Commission's guidance to develop an approach to allow CAP customers to shop. As explained herein, the Company, OCA and CAUSE-PA have entered a Stipulation proposing to delay the issues associated with CAP shopping pending consideration of these issues in the current default service proceeding for PPL

Electric Company. The Company believes that the Stipulation conserves resources and efforts of the parties, and that further litigation in this proceeding will likely become moot following such decision.

III. ARGUMENT

A. The ALJ Should Reject the EGS Parties' Contention That NITS Charges For Interstate Transmission Of Electricity To EGS Customers Be Recovered By The Company Through A Non-Bypassable Charge.

In its Main Brief, the EGS Parties present their argument for requiring the Company to charge EGS customers for interstate transmission service, or Network Integration Transmission Service ("NITS Charges"). The EGS Parties presented this proposal in testimony. In general, the EGS Parties alleged in testimony that the NITS Charge is variable and makes it difficult for them to set fixed prices for customers. EGS Parties St. No. 1, pp. 26-27. In response, the Company explained that NITS Charges are for interstate transmission service, are required to be unbundled by the Customer Choice and Competition Act ("Choice Act"), and that the Commission has rejected the EGS Parties' proposal on multiple occasions, including in two recent Duquesne Light Default Service proceedings. Duquesne Light St. No. 4-R, p. 22-24; Duquesne Light M.B., pp. 12-13. It is also noted that Calpine, an EGS not included in the EGS Parties, provided evidence why the EGS Parties' NITS proposal would disturb the competitive market and why Calpine opposed the proposal. Calpine Retail St. No. 1, pp. 3-4.

The EGS Parties' Main Brief contains no response to Duquesne Light's testimony opposing the EGS Parties' proposal on the basis of the prior Commission decisions. To the extent the EGS Parties attempt to provide such a response in their Reply Brief, they will have denied the Company any ability to reply.

Instead, the EGS Parties now offer in brief the previously-unadvanced contention that it is discriminatory under the Public Utility Code for the Company to recover NITS Charges for default service customers on a reconcilable basis but not recover NITS Charges incurred by the EGSs to serve their customers in a non-bypassable charge.[1] EGS Parties MB at 13-14. This contention is not only improper at this state of the proceeding, but also totally erroneous.

EGSs are charged the cost of interstate transmission service through the NITS charge. As recognized by the EGS Parties' testimony, this is a charge regulated by the Federal Energy Regulatory Commission ("FERC"). EGS Parties St. No. 1, p. 26. EGSs pay these charges because they are load serving entities using the interstate transmission services. Duquesne Light incurs charges at the same rate to obtain such services for its default service customers and recovers such cost from customers through its Transmission Service Charge ("TSC"). Duquesne Light St. No. 4-R, pp. 18-19.

While the EGS Parties would like to have the Company charge the EGS Parties' customers for NITS charges, the EGS Parties fail to explain why the Company should be responsible for recovering unbundled interstate transmission charges for shopping customers.

Moreover, the EGS Parties' belated contention that it is discriminatory for the Company to not agree to collect NITS Charges for EGS customers is erroneous. The first flaw in the EGS Parties' argument is that the Company is not discriminating based upon any service it is providing as an electric distribution company under the Public Utility Code. Instead, the Company is charging its default service customers for costs it incurs to obtain interstate transmission in service. The Company has no obligation under the Public Utility Code to charge shopping customers for

[1] There is no mention of discrimination anywhere in the EGS Parties' testimony.

costs incurred by an EGS to provide service, particularly those that are subject to FERC's jurisdiction.

The second flaw in the EGS Parties' argument is that they can also offer to collect actual NITS Charges from shopping customers on a dollar-for-dollar basis rather than offer fixed price transmission service. Duquesne Light's NITS charge cost recovery mechanism cannot be discriminatory because EGSs can collect NITS Charges from their customers in the same manner as Duquesne Light recovers them – on a dollar-for-dollar basis. EGSs have complete freedom to collect NITS charges from their customers in any manner that the EGS chooses.

For these reasons, and those explained in the Company's Main Brief, the EGS Parties' NITS proposal must be rejected.

B. The EGS Parties' Opposition to Duquesne Light's Proposed EV-TOU Rate Pilot Should Be Rejected.

The EGS Parties also oppose the Company's proposed EV-TOU Pilot. The Company has anticipated most of the EGS Parties' objections and refuted them in Duquesne Light's Main Brief.

The primary reason the EGS Parties oppose EV-TOU Pilot, and other initiatives like the Company's proposed Solar PPA, is expressed in the following statement in their main brief:

> As a matter of policy, the EGS Parties are not supportive of utilities using default service to provide what are essentially competitive offerings, particularly [an] offering with subsidized default service rate as the core.

EGS Parties M.B., p. 8.

While this is a clear statement of the EGS Parties' position, it is totally unsupported in the record of this case.

First, the EGS Parties' only "evidence" that the default service rate is "subsidized" is the EGS Parties' contention that it must be, otherwise more customers would choose service from an EGS. EGS Parties St. No. 1, p. 6. This is not evidence; it is speculation. In contrast, the

Company's witness Mr. Fisher explained that the Company has unbundled its rates, most recently in the Company's DSP VIII Settlement, which included as a party the Retail Energy Supply Association. This unbundling reduced current base distribution rates and increased default service rates based on costs agreed to by the parties. There is no basis to conclude the Company's default service rates are subsidized. Duquesne Light St. No. 3-R, p. 48.

Second, the Company has made it clear that it is not seeking to compete with EGSs to provide EV-TOU service. In fact, the record demonstrates that no EGS currently offers EV-TOU services. Duquesne Light St. No. 5-R, p. 22. Further, any EGS may elect to offer such service at any time.

In this regard, the EGS Parties also criticize Duquesne Light's use of only three billing periods in its EV-TOU rate: on-peak, shoulder and off-peak. EGS Parties M.B., p. 8.[2] However, the Company testified the EGSs may make offers and provide any product they choose. Duquesne Light St. No. 5-R, p. 27. The Company is not attempting to compete with EGSs. There is no EGS offer to compete with.

Contrary to unsupported assertions of the EGS Parties, the Company has demonstrated that there is growing need for EV-TOU service and that it is a critical service to encourage the adoption of EVs. Duquesne Light St. No. 5, p. 25-26. These assertions are also supported by the testimony of NRDC and the EV-TOU Stipulation. NRDC M.B., p. 23.

Finally, as explained in the Company's Main Brief, the Company has the right under the Choice Act to offer TOU service. Duquesne Light M.B., pp. 22-23.

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[2] Again, the EGS Parties did not present any testimony on the structure of the EV-TOU rate in this proceeding. The EGS Parties' argument on this issue should be denied because neither Duquesne Light nor any other party had an opportunity to respond to this argument.

The EGS Parties are attempting to prevent Duquesne Light from offering EV-TOU service despite the clear desire of the Commission for DSPs to offer this service, despite the clear statutory authority for DSPs to offer TOU service, and despite the clear lack of EV-TOU offerings by EGSs. As described in the Company's Main Brief, EV-TOU service will benefit EV owners, other customers and the public at large. Duquesne Light M.B., pp. 16-22. EV-TOU service should not be indefinitely delayed due to the EGS Parties' blanket opposition because the EV-TOU Pilot is offered by a default service provider.

C. MAREC's And The EGS Parties' Objections To the Company's Proposed Long-Term Solar PPA Should Be Rejected.

1. MAREC's Objections.

Although MAREC generally supports long-term renewable contracts, it appears that MAREC is not satisfied with the Company's proposal to obtain bids to obtain a long-term solar Purchased Power Agreement ("PPA").

MAREC's principal contention is that the record does not support the Company's position that its plan, which includes its proposal for the 7 MW PPA, is sufficient to meet the prudent mix standard. MAREC M.B., p. 12. This contention is clearly erroneous. The Company provided extensive explanations of how its DSP meets the prudent mix standard. This evidence explains how the mix of contracts, which also includes products and terms previously employed and approved by the Commission, is designed to ensure least cost over time, taking into account the benefits of price stability and including prudent steps to obtain least cost generation supplies. Duquesne Light St. No. 3, pp. 21-25. Duquesne Light also supplied an extensive quantitative analysis regarding price stability benefits of the supply products in the plan. Duquesne Light St. No. 3, pp. 10-13. The Company also explained how it considered Commission guidance on the prudent mix to be employed. Duquesne Light St. No. 3-R, pp. 30-31. Except with respect to

MAREC's and the EGS Parties' specific concerns related to the solar PPA, no party objected to the prudency of Company's proposed contract mix, which is accordingly memorialized in the Unopposed Partial Settlement.

In contrast, MAREC admitted in discovery that it "does not address requirements for Commission approval" in its presentation. Duquesne Light St. No. 3-R, p. 30. It is apparent that MAREC's only objective is to obtain larger quantities of long-term renewable contracts, not a prudent mix of contract terms. In this regard, MAREC states that "contrary to its assertions, the evidence submitted by Duquesne does not support its claim that 7 MW of solar is sufficient to result in a prudent mix." MAREC M.B., p. 5. This too is erroneous because the Company explained that the 7 MW PPA is expected to comprise slightly more than half of the solar requirements of default service customers, and it provides a reasonable balance of the benefits of long-term contracts with the risks of such contracts. Duquesne Light St. Nos. 1-R, pp. 2-3; 3-R, pp. 12-14.

MAREC's proposal is instead to employ an ill-defined "all-resource Request for Proposals followed by Integrated Resource Modelling to determine the least-cost mix of resources that meet the Company's other requirements including its AECs obligation." MAREC M.B., p. 5. As explained by the Company's procurement expert, Mr. Scott Fisher, MAREC's recommendation is excessively vague and lacks the necessary specificity for it to be actionable or to address issues it may entail. For example, MAREC failed to address the RFP design, the types of eligible resources, the products that would be solicited, the contract terms, the basis for selection of the winning bidders, how definitional differences between the different types of products would be considered, or how the process would be designed and implemented before the start of DSP IX on June 1, 2021. Duquesne Light St. Nos. 3-R, pp. 28-30; 3-RJ, pp. 1-3. Finally, when asked in discovery,

MAREC could not identify an instance in Pennsylvania, or in any U.S. jurisdiction in which the electricity industry has been restructured and customers are afforded retail access, where its recommendation was required as a condition of the approval of a default service plan. Duquesne Light St. No. 3-R, pp. 29-30.

MAREC also argues that it has provided substantial evidence to increase the amount of long-term renewable energy contracts. MAREC M.B., p. 12. This evidence consists primarily of a study performed in 2017 co-authored by MAREC's witness, Dr. Stanton. MAREC M.B., p. 6. However, this study should not be used to make any decision with respect to Duquesne Light's long-term power purchases. While MAREC's witness, Dr. Stanton, was the lead author of this study, she was unable to provide underlying assumptions, calculations, and other information pertaining to her study when requested during the discovery process. Duquesne Light St. Nos. 3-R, pp. 25-26; 3-RJ, pp. 4-5 Furthermore, Duquesne Light uncovered fundamental flaws and tenuous assumptions in the study that make the results of the study unreliable. Duquesne Light St. Nos. 3-R, pp. 18-24; 3-RJ, pp. 4-5. Importantly, the study failed to recognize definitional differences between various types of supply when comparing their assumed prices, and it thereby compared apples and oranges to reach its conclusions, without recognizing the difference. Duquesne Light St. No. 3-R, pp. 18-21. The study also included tenuous and flawed assumptions regarding the pricing of the supply products obtained through Pennsylvania's established default service solicitations. Duquesne Light St. No. 3-R, pp. 21-24. MAREC also presented high-level claims about long-term renewable generation contracts in general, and it offered examples where long-term renewable generation contracts have been either engaged in or considered, and in which the local utility may or may not be a counterparty. MAREC M.B., pp. 5-6, 9-11. However, Duquesne Light explained that these general claims do not justify increasing the quantity of supply

to be purchased in the form of long-term default service contracts for renewable generation, and in fact the examples that MAREC presented are consistent with Duquesne Light's proposal. Duquesne Light St. Nos. 3-R, pp. 14-15, 26-27; 3-RJ, pp. 5-6. Based on all of these facts, it must be concluded that the 2017 study and additional arguments that MAREC presented do not justify a change in the DSP proposed by Duquesne Light, which follows a pattern that has historically produced reasonable and stable prices.

In contrast, Duquesne Light's proposed 7 MW solar PPA provides a prudent amendment to past supply mixes approved by the Commission for the Company. Duquesne Light St. Nos. 1, pp. 14-15; 3-R, pp. 13-14.

Finally, as a last resort, MAREC proposes a collaboration on long-term contracts with a right for MAREC to request reopening of the DSP IX to change the plan. The evidence in this case provides a clear basis for rejecting MAREC's approach. There is no basis to believe that further consideration of additional long-term renewable contracts would provide a basis for reconsideration of the supply mix approved by the Commission in this case. MAREC's proposed collaborative and reopener should be rejected.

2. The EGS Parties' Objections.

The EGS Parties take the opposite position from MAREC; they oppose any long-term contract.

As explained earlier in this reply brief, the EGS Parties oppose any default service initiative that could hypothetically affect their potential future opportunities. EGS Parties M.B. at 6. However, they fail to explain how Duquesne Light's use of a long-term solar PPA would interfere with EGS products. The Company is proposing to acquire a long-term contract for about half of its default service solar AEC requirements. The Company is not offering a solar rate or product. Therefore, the issue is only whether a long-term solar PPA is an appropriate component of a

prudent mix strategy for default service customers. The only argument the EGS Parties make in this regard is that the price under the PPA may be deviate from the market in some future years. If that were a basis for objecting, then all long-term contracts should be prohibited. However, the Choice Act specifically permits contracts of 4 to 20 years. 66 Pa. C.S. § 2807(e)(3.2).

The EGS Parties, again for the first time in their brief, argue that sale of the energy from the solar facility places the Company back in the generation business. This contention is specious. The critical requirement under the AEPS Act is to obtain requisite Alternative Energy Credits ("AECs"). 73 P.S. §§ 1648.1 et seq. Procuring a 7 MW long-term solar contract is expected to secure slightly more than 50% of the required solar AECs (SAECs) on a long-term basis. The solar contract will also provide energy. Solar facilities produce intermittent energy. The Company proposes to sell this energy into the market, and credit the sales revenue to the default service reconciliation. This will avoid interfering with the load following fixed price wholesale contracts that it uses to provide default service energy requirements. This is designed to avoid creating potential increased prices under the wholesale contracts due to uncertainty regarding how much energy the solar facility will produce. Contrary to the EGS Parties' belated contention, it does not put the Company in the generation business. The Company will not own the solar generating facility. It is simply a process to balance supply and demand and obtain for default service customers additional value from the solar PPA. In this regard, the Commission has previously permitted a Default Service Supplier to sell excess energy into the market when default service supply purchased under a block product exceeds the demands of default service customers. *Petition of PECO Energy for Approval of Default Service Program and Rate Mitigation Plan*, Order April 16, 2009, Docket No. P-2008-2062739, pp. 6-7, 9. Accordingly, sales of energy

purchased to serve default service load are not prohibited by the Choice Act, as contended by the EGS Parties.

The EGS Parties also claim, incorrectly, that the Company did not explain why it did not proceed with its authorization to let bids for a long term solar PPA in DSP VIII. EGS Parties M.B., p. 6. The Company explained on the record in this case that it sought a PPA to purchase only SAECs, and that solar developers were not interested in disaggregating the credits from the energy supply. The proposed solar PPA in this case is designed to resolve that problem and provide long term solar AECs required by the Choice Act for default service customers. Duquesne Light St. No. 1, p.16.

The EGS Parties also contend that capacity from the solar PPA if sold into PJM would potentially make Duquesne Light subject to FERC's proposed Minimum Offer Price Rule ("MOPR"). The Company responded that it is not committed to acquiring capacity, and further that it would not enter into a solar PPA, or acquire or sell capacity, if doing so would invoke such rule as ultimately adopted. Duquesne Light St. No. 1-RJ, p. 2.

The EGS Parties also contend that the long-term contract could outlive the proposed and even subsequent default service plans, presenting the possibility that Duquesne Light could no longer be the default service provider and the costs of such a contract could become stranded or be used as an excuse why a new default service provider should not be approved. EGS Parties M.B., p. 5. However, as OCA's procurement witness Dr. Ogur explained, the contractual obligations could be transferred to a new default service provider if one were to be approved, and Pennsylvania EDCs as default service providers routinely enter into power supply contracts (which are approved by the Commission) that extend beyond the end date of the default service plan period

to mitigate price shock risk at the start of a new default service plan period. OCA Statement No. 1-R, pp. 8-9.

The EGS Parties also contend that a 7 MW solar contract could crowd out other solar contracts in the PJM market. EGS Parties M.B., p. 6. As OCA's procurement witness Dr. Ogur pointed out, that is highly unlikely with over 269 solar projects in the PJM interconnection queue, representing more than 9,000 MW. OCA St. No. 1-R, p. 9. Moreover, the EGS Parties' witness Mr. Kallaher admitted in discovery that he was not aware of any specific potential solar projects that might be displaced by the Company's proposed solar PPA. Duquesne Light St. No. 1-R, pp. 3-4.

The EGS Parties also argue that the Solar PPA is a direct assault on efforts to enact Community Solar initiatives. EGS Parties M.B., p. 6. This argument is not supported by any actual evidence from the EGS Parties and is incorrect. A Solar PPA by Duquesne Light for a maximum of 7 MW will in no way hinder any type of solar development or Community Solar initiative in Pennsylvania.

3. OCA's Comments.

OCA does not oppose the Company's proposed solar PPA. However, OCA argues that the Company provide a long-term projection of future prices to justify the approval of the actual contract by the Commission. OCA M.B. at 3-7. The Company addressed this argument in its Main Brief, and explained that projecting long-term prices is speculative and without purpose in evaluating whether to proceed with a long-term contract. Duquesne Light M.B. at 34-35.

4. Conclusion as to Long-Term Solar PPA.

For the reasons explained herein, and in the Company's testimony and Main Brief, the Company has fully justified the solicitation of a 7 MW long-term solar PPA for development in Pennsylvania, preferably in the Company's service territory. The Commission should approve

this proposal, as part of the DSP IX procurement plan, subject to its actual review of the contract with the selected project sponsor.

D. The Revised SOP Plan And EGS Parties' Proposal To Place All New And Moving Customers Into The SOP

1. The Company's Proposed SOP Changes

The Company proposed modifications to its Standard Offer Program ("SOP") in its initial filing. The primary proposed change was to move from using Company customer service representatives ("CSRs") explaining the SOP plan to customers to providing this function through a third party, Allconnect. The purposes of this change are to attempt to increase SOP enrollments to levels closer to those achieved by other electric distribution companies ("EDCs") that use third parties to perform this function, and to allow the CSRs to focus on EDC issues. Duquesne Light St. No. 5, pp. 5-10.

The EGS Parties supported the Company's proposal to outsource SOP. Although some other parties initially opposed the Company's proposed SOP changes, they have agreed to a Stipulation with the Company as to SOP and CAP Shopping, which was filed on September 30, 2020, and admitted to the evidence by the ALJ. First Interim Order Addressing Two Joint Stipulations Filed on September 30, 2020 issued October 6, 2020.

In this proceeding, CAUSE-PA and OCA introduced data from another Pennsylvania utility concerning the prices charged by EGSs to customers that enroll in the SOP and remain with the selected EGS after the 12-month fixed price period of the SOP ends. These data demonstrate that EGSs' prices on average rose to levels significantly above the PTC after the 12-month price limit under the SOP enrollment ended. CAUSE-PA St. No. 1, pp. 29-30; OCA St. No. 2, pp. 4, 17.

The SOP/CAP Shopping Stipulation provides for reporting by the Company of the prices paid by customers who remain with an EGS after the 12-month period. SOP/CAP Shopping Stipulation, ¶ e. The Company shares the concerns of CAUSE-PA and OCA about customers paying prices above the PTC when customers remain with an EGS without an affirmative decision by the customer to accept another EGS product. The Company, as explained previously, rejects the EGS Parties' contention that this can be justified by their unsupported claim that the PTC or default service price is somehow subsidized. *Supra*, pp. 5-6. The provision in the SOP/CAP Stipulation to study and provide data on these charges to such customers by EGSs is appropriate and reasonable under these circumstances.

The Company does not agree with the EGS Parties' assertion that this examination is contrary to the law because the Commission cannot revise or set EGS prices. The Commission developed the SOP and directed the Company to adopt it. The Commission certainly may make changes to the SOP. Such changes could include requiring notices from EGSs to SOP customers prior to the end of the 12-month term identifying price increases, requiring EGSs to return customers to default service if they do not make an alternative election to remain with the EGS or select another EGS, or the Commission could simply terminate the SOP.

The Company has been a consistent supporter of shopping that can produce savings for customers as compared to the PTC. However, the SOP may require re-examination by the Commission, after the Company collects and provides the data that are to be produced under the SOP and CAP Shopping Stipulation. SOP/CAP Shopping Stipulation, ¶ e.

2. The EGS Parties' New Proposal To Move All New And Moving Customers To The SOP Violates The Choice Act And Would Be Poor Policy.

In their Main Brief in this proceeding, the EGS Parties have now proposed automatic enrolling of all new and moving customers in the SOP. EGS Parties M.B at 8-9. This is a

completely different position than the EGS Parties took in testimony in this proceeding. In Surrebuttal Testimony, EGS Parties' witness Kallaher argued that new and moving customers should **not** be permitted to enroll in the SOP or in default service. Mr. Kallaher testified as follows:

> Mr. Fisher is absolutely correct that I should have been crisper in my delineation between the Coalition's proposal for new and moving customers and that proposal's interaction with the SOP. ***My intention – which Mr. Fisher seems to have divined from my less-than-perfect presentation – was to express the view that new and moving customers would no longer be offered the opportunity to participate in the SOP***, as a new mechanism would be created that would allow for all such customers to begin service with an EGS rather than having the option to begin service on default service. The SOP would continue to be offered to other categories of customers, as described in the Company's default service filing. The SOP is, indeed, a standardized product, and placing new and moving customers who don't otherwise choose on such a standardized product, in my view, would be a missed opportunity for increasing innovation, customer value, and the overall robustness of the market.
>
> EGS Parties' St. No. 1-SR, p. 2, line 16 – p. 3, line 5 (emphasis supplied).

In a readily-apparent about-face, the EGS Parties now argue in their Main Brief that all new and moving customers should be enrolled in the SOP. M.B., p. 8. The EGS Parties' attempts to completely reverse their position in their Main Brief should not be accepted. Moreover, the Company opposes this proposal as contrary to the Choice Act and unfair to new and moving customers.

In attempting to justify their proposal, the EGS Parties mischaracterize the Choice Act. They state:

> The rationale for this recommendation is that the competition act never envisioned that after 25 years that the vast majority of customers could still be receiving default service.

EGS Parties M.B., p. 9.

In fact, there is nothing in the Choice and Competition Act that supports this statement. The Act's short title is the Choice and Competition Act. This makes it clear from the start that the

Act is about customer choice. Further, the Act requires that there be a Default Service Supplier even if the EDC is replaced in this responsibility.

> Following the expiration of an electric distribution company's obligation to provide electric generation supply service to retail customers at capped rates, if a customer contracts for electric generation supply service and the chosen electric generation supplier does not provide the service or if a customer does not choose an alternative electric generation supplier, the default service provider shall provide electric generation supply service to that customer pursuant to a commission-approved competitive procurement plan.

66 Pa. C.S.A. § 2807(e)(3.1).

It is, therefore, clear that the General Assembly never intended that all customers move to EGSs. If it had such an intention, it would have included provisions, other than default service, for customers that do not choose an EGS to be served.

The EGS Parties also make the following statement in their Brief:

> The mere fact that all customers are now required to start service as Default Service customers, ensures that this status will persist into the future unless we make a change.

EGS Parties M.B., p. 9.

This statement is simply wrong. The Company currently provides every new and moving customer with the option of selecting an EGS, retaining the customer's current EGS if the customer has one, electing the SOP, or receiving default service.[3] In fact, this case has involved proposed enhancements in how customers will make their choice to elect the SOP. But that is apparently not enough for the EGS Parties. They now propose that all new and moving customers be required to elect the SOP. This proposal is clearly contrary to the Choice Act and must be rejected.

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[3] EGS Parties' witness Mr. Kallaher already acknowledged in his surrebuttal testimony that the Company does not require new customers to start on default service. EGS Parties St. No. 1-SR, p. 3, lines 12-18 (responding to Duquesne Light St. No. 3-R, pp. 35-36, in which Company witness Mr. Fisher points out that new and moving customers can start service with an EGS).

The EGS Parties' proposal, if accepted, would also be poor policy with the potential for significant customer harm. Forcing a new or moving customer to switch to an EGS when the customer is focused on the many issues of establishing a new residence is simply unreasonable. A customer that does not voluntarily and affirmatively elect service from an EGS should not be forced to accept service from an EGS that subsequently can charge the customer whatever rate the EGS elects to charge, without any Commission oversight following the twelve month SOP period. Mr. Fisher further explains in detail why the rationale underlying the EGS Parties' proposal is without merit and may harm customers. Duquesne Light St. No. 3-R, pp. 32-49.

For these reasons, the EGS Parties' new and moving customer proposal should be rejected.

E. A Decision On CAP Shopping Should Be Delayed.

In the Commission's January 23, 2020 Secretarial Letter, which is attached as Appendix D to the Company's Main Brief, the Commission encouraged EDCs to make proposals to implement CAP Shopping in 2020 Default Service cases in accordance with the Commission's proposed CAP Shopping Policy Statement. The principal requirement of such proposals was that EGSs not charge CAP customers more than the PTC at any time. Duquesne Light M.B., Appendix D, pp. 9-10.

As explained by Ms. Scholl, the Company made a good faith proposal to permit CAP customers to shop, reflecting the principle that CAP customers would not be charged more than the PTC. Duquesne Light St. No. 5, pp. 11-17. CAUSE-PA argued that the Commission had not required CAP Shopping and that CAP Shopping is not appropriate at this time. CAUSE-PA St. No. 1, p. 42. While Ms. Scholl explained in direct testimony that the Company would take precautions to try to keep EGSs from charging CAP customers more than the PTC, Ms. Scholl also explained that there were difficult questions when a customer already had an EGS contract for a term and enrolled in CAP during that term. Since the Company cannot unilaterally terminate or modify the contract, enrolling the customer in CAP could increase the cost of CAP credits paid

by other customers for the remaining term of the EGS contract. Duquesne Light St. No. 5-R, pp. 15-16.

After reviewing the prior testimony of all parties, Ms. Scholl testified as follows in surrebuttal testimony:

> **Q. Are there any preliminary statements you wish to make regarding the Company's proposal for CAP Shopping?**
>
> A. Yes. Based on parties' comments on the Company's CAP Shopping proposal, I have doubts that it can be implemented successfully and yield customer benefits commensurate with costs.
>
> The parties in this proceeding have noted several concerns with aspects of the Company's CAP Shopping proposal. In particular, Mr. Geller expresses concern that customers who enroll in CAP with a carryover EGS contract may pay rates in excess of the price-to-compare until their contract expires.[4] As I explained in my rebuttal testimony, I believe that the transition process the Company proposed is consistent with the Commission's guidelines and the FirstEnergy Companies' CAP Shopping program.[5] However, I agree with Mr. Geller that this transition process would likely cause some CAP customers with holdover EGS contracts – and, correspondingly, the residential customers that pay the Universal Services Charge – to pay higher rates than if CAP Shopping were not allowed. I understand and appreciate this concern.
>
> Mr. Kallaher's comments in his rebuttal testimony have further amplified this concern, as it pertains to whether the Company's CAP Shopping proposal can be successfully implemented. Mr. Kallaher argues that the Company's PTC is not an appropriate point of comparison for EGS supply rates, and that the Competition Act was not designed or intended to produce EGS rates below default service rates.[6] This position is at odds with one of the primary purposes of CAP Shopping; namely, to help CAP customers reduce their electric bills as compared to default service. To the extent EGSs feel they should not or cannot offer electric supply at a rate lower than the PTC, then in my opinion, CAP shopping may be counterproductive.
>
> There also remains the question of which is the appropriate recovery mechanism for the costs of implementing CAP Shopping. In my

[4] CAUSE-PA St. No. 1, pp. 40-42, 44-46; CAUSE-PA St. No. 1-R, pp. 11-12.
[5] DLC St. No. 5R, p. 16, line 9 – p. 17, line 22.
[6] EGS Parties St. No. 1-R, p. 2, line 8 – p. 5, line 21.

> direct testimony, I estimated the cost to develop the capabilities in the Company's billing system at approximately $160,000, which the Company proposed to recover through the Universal Services rider.[7] Ms. Alexander and Mr. Geller each advocate for allocating implementation costs to EGSs.[8] While I stand by the Company's proposal to recover costs through the Universal Services Charge for the reasons I articulated in my rebuttal testimony,[9] the Company is not opposed to EGSs bearing some portion of implementation costs, provided the recovery mechanism ensures that the Company is made whole. I note that EGSs already bear costs of certain shopping-related customer programs, i.e., the standard offer program. However, requiring EGSs to bear the Company's costs of implementing CAP shopping would likely further chill EGSs' desire to participate. And based on Mr. Kallaher's comments in rebuttal testimony, I am concerned that there may not be enough interest to attain a minimum of five participating EGSs even under the Company's proposed cost allocation.
>
> As I indicated in my direct and rebuttal testimony, the Company proposed CAP shopping based on its understanding of the parties' settlement in the Company's DSP VIII proceeding, as well as the guidance provided in the Commission's Secretarial Letter entered January 23, 2020 at Docket No. M-2019-3007101.[10] Parties' testimony in this proceeding illuminate legitimate questions regarding whether the Company's CAP shopping proposal should be implemented, even notwithstanding its consistency with applicable Commission guidance. These are ultimately questions for the Commission. The Company intends to abide by the Commission's direction regarding whether to implement CAP shopping in DSP IX.

Duquesne Light St. No. 5-SR, pp. 2-5.

Subsequent to the completion of testimony, the Company entered into the SOP and CAP Shopping Stipulation. As to CAP Shopping, the Company, CAUSE-PA and OCA request that any decision on CAP shopping for the Company be delayed until the Commission decides whether to

[7] DLC St. No. 5, p. 18, line 20 – p. 19, line 3.
[8] CAUSE-PA St. No. 1, p. 52, lines 20-22; OCA St. No. 2, p. 20, lines 10-17; OCA St. No. 2-R, p. 3, line 19 – p. 4, line 14.
[9] DLC St. No. 5R, p. 18, line 18 – p. 19, line 6.
[10] DLC St. No. 5, p. 12, line 16 – p. 13, line 19; DLC St. No. 5R, p. 16, lines 6-15.

proceed with CAP Shopping, and on what terms, in the pending PPL Electric Company default service proceeding (Docket No. P-2020-3019356).

The EGS Parties support CAP Shopping and request that it be approved as soon as possible. They propose no solution to the problem of customers who become eligible for CAP during the term of an EGS contract for a price above the PTC, other than that other customers should pay such difference in the Universal Service Charge. EGS Parties M.B., p. 10-11.

The Company respectfully submits that these issues be postponed pursuant to provisions of the SOP and CAP Shopping and that the ALJ approve that Stipulation.

F. EGS Parties' Argument That Duquesne Light Should Be Required to Make Another Filing Detailing Compliance With the FERC MOPR Should be Denied.

In their Main Brief, the EGS Parties argue that Duquesne Light should be required to make another filing demonstrating compliance with the FERC MOPR to ensure that the Company's default service plan is not a "State Subsidy" and that the solar PPA does not violate the MOPR requirements. EGS Parties M.B. at 15-17. The Company addressed these issues in its Main Brief at pages 30-31. For the reasons explained therein, the EGS Parties' arguments regarding the FERC MOPR should be denied.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, Duquesne Light Company respectfully requests that Administrative Law Judge Hoyer and the Pennsylvania Public Utility Commission:

(1) approve the Partial Settlement that will be filed on or before October 13, 2020;

(2) grant the approvals for Duquesne Light to procure power as set forth in this proceeding, including if needed, credit support from its parent;

(3) authorize the Company to file on one day's notice tariff sheets implementing the terms of the settlement and the Commission's directives in a final order;

(4) approve the Supply Master Agreement;

(5) approve the EV-TOU Stipulation between the Company, NRDC, CAUSE-PA, and OCA;

(6) approve the SOP stipulation between the Company, OCA and CAUSE-PA;

(7) approve the CAP shopping stipulation between the Company, OCA and CAUSE-PA;

(8) deny the EGS Parties' NITS proposal;

(9) approve the Company's EV-TOU proposal;

(10) approve the Company's solar PPA proposal;

(11) make the specific findings required under 66 Pa. C.S. § 2807(e)(3.7); and

(12) grant other such relief as necessary for Duquesne Light to implement its default service plan.

Respectfully submitted,

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