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June 2, 2021

VIA EFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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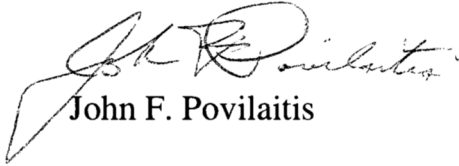
Re: Pennsylvania Public Utility Commission, Office of Consumer Advocate, Office of
Small Business Advocate v. Duquesne Light Company;
Docket No. R-2021-3024750, C-2021-3025538, C-2021-3025462, C-2021-
3026057

Dear Secretary Chiavetta:

On behalf of Nationwide Energy Partners, LLC, enclosed please find the Motion for
Consolidation in the above-referenced proceeding.

This document is being served as indicated in the Certificate of Service.

Very truly yours,



John F. Povilaitis

JFP/tlg
Enclosure
cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Office of Consumer Advocate, Office of Small	:	Docket No. R-2021-3024750
Business Advocate	:	C-2021-3025538
	:	C-2021-3025462
v.	:	C-2021-3026057
	:	
Duquesne Light Company	:	

MOTION FOR CONSOLIDATION

TO ADMINISTRATIVE LAW JUDGES JOEL H. CHESKIS AND JOHN M. COOGAN:

Nationwide Energy Partners, LLC (“NEP” or “Complainant”), by and through its counsel, Buchanan Ingersoll & Rooney PC, files this Motion for Consolidation, pursuant to Section 5.81 of the Pennsylvania Public Utility Commission's regulations, 52 Pa. Code § 5.81, in the above-captioned matter, and in support thereof avers as follows:

I. INTRODUCTION AND BACKGROUND

1. By this Motion for Consolidation, NEP seeks to have its formal complaint (“Complaint”) against the general rate case (“Rate Case”) filed by Duquesne Light Company (“DLC” or “Company”) at Docket No. 2021-3024750 consolidated with the DLC Rate Case for hearing, briefing and adjudication. Such consolidation is consistent with the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) regulations and precedent, and will promote judicial economy and administrative efficiency.

2. NEP is a provider of sub-metering and conservation/efficiency services, specializing in serving multifamily developments. It has provided its services in Pennsylvania for over sixteen years, outside DLC’s service territory.

3. On April 16, 2021, DLC filed with the Commission at Docket No. R-2021-3024750 Tariff Supplement No. 25 to the Company’s Tariff Electric-Pa.P.U.C. No. 25 (“Tariff”), in

connection with a request for a general increase in its electric distribution rates of approximately \$115 million, with an effective date of June 15, 2021, and proposing various other changes to its existing tariff.

4. Among the other things, DLC has proposed a change in its Tariff Rule 41, which addresses and currently prohibits the use of master meters in multi-tenant buildings. The proposed change to Tariff Rule 41 would allow master metering by landlord/owners of multi-tenant buildings on a very limited basis. Tariff Rule 41, as proposed, would only allow the use of master meters for a very limited class of residential customers and deny their use in other situations that NEP believes would be beneficial and in the public interest. The Company has supported its proposed changes in Tariff Rule 41 through Statement No. 6, the Direct Testimony of Yvonne Phillips. The main subject of Ms. Phillips' Direct Testimony is the Company's proposed master metering proposal.

5. NEP's Complaint alleges that DLC's Tariff Rule 41, as it existed and as proposed in the Company's Tariff, in conjunction with Rule 18 (which requires all electricity supplies to the customer to be consumed by the customer) unreasonably, unlawfully and discriminatorily limits the use of master meters by multifamily landlord/owner customers. *See* Exhibit 1, attached Complaint, paragraph 10.

6. The Company's Direct Testimony acknowledges that expansion of its master metering Tariff proposal could impact "inter- and intra-class revenue allocation impacts." DLC St. No. 6, p. 6, lines 4-6. Therefore, consideration of whether the issue of whether the Company's proposed changes to Tariff Rule 41 are too limited and narrow should be considered in this rate case a proceeding where a broad group of parties are participating and can evaluate the impact of

a tariff change on their interests. Affected interests could include residential and small commercial customers, low income customer advocates, larger commercial customers and others.

II. APPLICABLE LEGAL STANDARDS

7. Section 5.81 of the Commission's regulations allows a presiding officer to consolidate proceedings involving a common question of law or fact and to make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay. 52 Pa. Code § 5.81(a). Pursuant to this Commission regulation, consolidation of proceedings is a matter of discretion for the presiding officer.

8. Ample Commission precedent supports the consolidation of cases for adjudication, for hearing or for briefing. *See Mishler v. The Peoples Natural Gas Company*, 2008 Pa.PUC LEXIS 1094 (December 1, 2008)(“*Mishler*”), Opinion of ALJ Vero citing *Re Middletown Taxi Co.*, 50 Pa. PUC 263 (1976); *City of York v. York Telephone and Telegraph Co.*, 43 Pa. PUC 240 (1967); *Clepper Farms, Inc. v. Grantham Water Co.*, 41 Pa. PUC 749 (1965).

9. While the first criteria (set forth in the Commission's regulations) in considering consolidation is the presence of a common question of law or fact, the Commission has also evaluated (i) whether consolidation result in reduced costs of litigation and decision-making for the parties and the Commission, (ii) will consolidation unduly protract the hearing, or produce a disorderly and unwieldy record, (iii) whether different statutory and legal issues are involved, (iv) does the party with the burden of proof differ in the proceedings, (v) will consolidation unduly delay the resolution of one of the proceedings, and (vi) will supporting data in both proceedings be repetitive. *Mishler* at 9, citing *Applications of Philadelphia Electric Co.*, 43 Pa. PUC 781 (1968), *Pa. Public Utility Comm 'n v. Bell Telephone Co. of Pennsylvania*, 46 Pa. PUC 568 (1973), and *Pa. Public Utility Comm'n v. Butler Twp. Water Co.*, 52 Pa. PUC 442 (1978). No single

consideration is dispositive of a proposed consolidation, but rather all relevant factors should be considered.

III. ARGUMENT

10. DLC's Tariff filing and NEP's Complaint are interrelated and raise common issues of law and fact. The proposed Tariff proposes and defends significant changes in Tariff Rule 41 and how that rule relates to Tariff Rule 18, which broadly prohibits the redistribution of electricity by a customer. The Complaint challenges the reasonableness and lawfulness of current and proposed Rules 18 and 41.

11. The Commission's May 20, 2021 Order makes clear that both DLC's proposed Supplement No. 25 to Tariff Electric Pa.P.U.C. No. 25 and the lawfulness of the Company's existing rates, rules and regulations are included in the rate case investigation instituted by the Commission. *Pennsylvania Public Utility Commission v. Duquesne Light Company*, Docket No. R-2021-3024750 (Order Entered May 20, 2021). The Tariff filing and the Complaint share the common issues of law and fact as to whether and to what extent Tariff Rules 18 and 41 should be modified.

12. Consolidation of these proceedings will not protract the hearing of the rate case, nor will it create a disorderly or unduly unwieldy record. Rather, it is untenable for the Commission and the parties affected by these Tariff rules to attempt to litigate their meaning, interpretation and wording in two separate, contemporary proceedings. Litigating NEP's Complaint separate from the Rate Case would put these common issues on two different procedural schedules and create massive issues of coordination. Consolidation will expedite rather than delay resolution of the issues in the Rate Case and the Complaint.

13. The adjudication of DLC's Rule 18 and 41 Tariff proposals and NEP's Complaint are expected to implicate the same provisions of the Public Utility Code, Commission regulations, and case law of the Commission and appellate courts.

14. DLC maintains the same ultimate burden of proof on the reasonableness and lawfulness of its existing and proposed tariff rules in the Rate Case and the Complaint addressing the use of master meters by customers.

15. Because the disposition of each of these matters is interrelated, the consolidation of these proceedings will promote the efficient use of the time and resources of the parties and the Commission. Having separate and duplicative evidentiary records of testimony and evidence would be both inefficient and a waste of the parties', the ALJs' and the Commission's resources. Consolidation of the Rate Case and the Complaint for hearing, briefing and adjudication is warranted and in the best interest of the public, the parties and the Commission.

IV. CONCLUSION

WHEREFORE, NEP respectfully requests that this Motion for Consolidation be granted.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Dated: June 2, 2021

By: /s/ John F. Povilaitis

John F. Povilaitis (PA I.D. #28944)

Alan M. Seltzer (PA I.D. #27890)

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Counsel for Nationwide Energy Partners, LLC

Exhibit 1

Buchanan

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May 25, 2021

VIA EFILING

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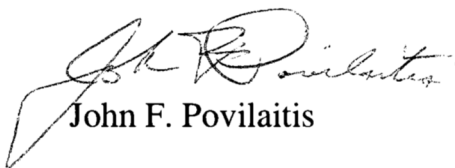
Re: Nationwide Energy Partners, LLC v. Duquesne Light Company;
Docket No. C-2021-
R-2021-3024750

Dear Secretary Chiavetta:

Enclosed please find the Formal Complaint of Nationwide Energy Partners, LLC to the Proposed General Rate Increase filed by Duquesne Light Company.

This document is being served as indicated in the Certificate of Service.

Very truly yours,



John F. Povilaitis

JFP/tlg
Enclosure
cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Nationwide Energy Partners, LLC	:	
	:	
v.	:	Docket No. C-2021-
	:	R-2021-3024750
Duquesne Light Company	:	

**FORMAL COMPLAINT OF NATIONWIDE ENERGY PARTNERS, LLC
TO PROPOSED GENERAL RATE INCREASE**

Nationwide Energy Partners, LLC (“Nationwide” or “Complainant”), by and through its counsel, Buchanan Ingersoll & Rooney PC, pursuant to 52 Pa. Code §§ 5.21-5.23, hereby submits this Formal Complaint to Tariff Supplement No. 25 to Electric - Pa. P.U.C. No. 25, as filed by the Duquesne Light Company (“Duquesne Light” or “Company”) in the general rate proceeding at Docket No. R-2021- 3024750. In support thereof, Nationwide states as follows:

I. BACKGROUND

1. Complainant Nationwide is a provider of submetering and conservation/efficiency services, specializing in serving multi-tenant commercial buildings. Nationwide operates in several states and has provided its services in Pennsylvania for over sixteen years within the PECO Energy service territory. Nationwide has received requests from Duquesne Light customers to expand its services in Pennsylvania into Duquesne Light’s service territory. To provide Nationwide’s services, owners of multi-tenant commercial buildings must be able to use Duquesne-installed master meters and become commercial service customers of Duquesne Light. However, Duquesne Light’s current tariff contains a ban or severely limits the use of new master metering arrangements in tenant-occupied buildings. This Complaint seeks relief from this untenable, unreasonable and unlawful situation.

2. Counsel for Nationwide are:

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Alan M. Seltzer (PA I.D. #27890)
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3. Pursuant to 52 Pa. Code § 1.54(b)(3), the undersigned counsel consent to electronic service of all documents at the e-mail addresses shown above, to be followed up with one hard copy of the documents served.

4. Respondent Duquesne Light is a jurisdictional Pennsylvania public utility providing electric distribution service and provider of last resort service to approximately 588,676 customers in Allegheny and Beaver counties pursuant to certificates of public convenience from the Commission. Duquesne Light is a Pennsylvania corporation with its principal place of business at 411 Seventh Avenue, Pittsburgh, PA 15219.

5. On April 16, 2021, 2021, Duquesne Light filed with the Commission at Docket No. R-2021-3024750 Tariff Supplement No. 25 to the Company's Tariff Electric - Pa. P.U.C. No. 25 ("Tariff"), representing a request for a general increase in electric distribution rates of approximately \$115 million, with an effective date of June 15, 2021, and proposing various other changes to its Tariff. The data offered by Duquesne Light in support of the proposed rate increase is based on a fully projected test year. As proposed, Duquesne Light projects a bill increase of 7.2% for the average residential customer, an increase of 6.36% for the average commercial customer, and an increase of 4.23% for the average industrial default service customer. On May 20, 2021, the Commission suspended the effective date of the Tariff, for investigation and referred

the matter to the Commission's Office of Administrative Law Judge for hearing and a recommended decision.

6. In connection with the above filing, Duquesne Light advised the Commission of its election to use the alternative method of customer notification set forth at 52 Pa. Code § 53.45(b)(4) (allowing customer notification through bill inserts). Duquesne Light also agreed under that provision to extend from 60 to 90 days the minimum period in which the filing of a complaint places the burden of proof upon Duquesne Light with respect to proposed rates. Accordingly, this Formal Complaint is timely filed.

II. GENERAL BASIS FOR FORMAL COMPLAINT

7. Pennsylvania law provides that any interested person, including a corporation, may file a formal complaint with the Commission regarding acts and omissions of a jurisdictional utility that are in violation of the Public Utility Code. 66 Pa. C.S. § 70 I; *see also* 52 Pa. Code § 5.21(a).

8. The interest of a complainant must be direct, immediate and substantial. *Waddington v. Pa. Pub. VIII. Comm'n*, 670 A.2d 199, 202 (Pa. Cmwlth. 1995), *appeal denied*, 544 Pa. 679, 678 A.2d 368 (1996). To be "direct," a complainant must demonstrate "causation of the harm to his interest by the matter of which he complains." *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 195, 346 A.2d 269, 282 (1975) (plurality). To be "immediate," the harm must be more than a mere "remote consequence." *Id.* at 197, 346 A.2d at 283. Finally, to be "substantial," there must be some "discernible adverse effect" beyond the general duty to comply with the law. *Id.* at 195, 346 A.2d at 282.

9. Nationwide opposes Duquesne Light's proposed rate increase because, based on the terms and interpretation of its tariff provisions relating to master metering for commercial buildings, specifically Tariff Rule 18 and Rule 41, Duquesne Light is depriving certain of its

commercial customers of the opportunity to reduce their rates for service. Thus, these customers may be paying for electricity under rates that may be unjust, unreasonable, and in violation of the law and will or may produce an excessive return on investment in violation of the Public Utility Code, 66 Pa. C.S. § 1301, *el seq.* These proposed rates and charges for service may therefore be allocated and designed unlawfully and in a discriminatory manner, in violation of the Public Utility Code, 66 Pa. C.S. §§ 1301 and 1304 and may otherwise be contrary to sound ratemaking principles and public policy. Nationwide seeks to ensure that Duquesne Light's tariff with respect to master metering does not prohibit Nationwide's ability to provide cost-effective and energy efficient services to certain commercial customers in Duquesne Light's service territory.

10. Duquesne Light has specifically indicated in this proceeding that it is changing Tariff Rule 41. In concert, Rule 18 and Rule 41 do not set clear and reasonable standards for the use of master meters in commercial buildings for either commercial or residential landlords and tenants. Together these Rules afford Duquesne Light an unreasonable amount of discretion to deny the use of master meters, including under circumstances where their use would be in the public interest. Accordingly, Duquesne's Tariff rules 18 and 41 should be examined and revised to ensure that their terms and conditions are interpreted and applied in a lawful, just, reasonable, and non-discriminatory manner so as to provide enhanced value and services to customers.

11. Nationwide has a direct, immediate and substantial interest in this matter.

III. RELIEF SOUGHT

12. At this time, Nationwide continues to evaluate Duquesne Light's testimony, including the proposed commercial rates and Rules affecting the use of master meters, and will refine its position based on further study of the testimony, review of discovery and additional input

from other parties. Nationwide reserves its right to raise any pertinent issues as necessary based on the future filings and the positions taken by the other parties.

13. At a minimum, Nationwide respectfully requests that the Commission (1) modify Duquesne Light's existing and proposed Rules impacting the use of master meters and deny any charges or changes contained in Duquesne Light's proposal that cannot be fully justified, or which otherwise are contrary to the Public Utility Code, sound ratemaking principles, and public policy; (2) determine the justness and reasonableness of Duquesne Light's proposed rates; (3) ensure that Tariff Electric - Pa. P.U.C. No. 25 is just, reasonable and non-discriminatory; and (4) grant such other relief that the Commission may deem to be necessary and proper.

WHEREFORE, for the foregoing reasons, the Nationwide respectfully requests that the Commission deny certain tariff changes requested by Duquesne Light in its Supplement No. 25 to Electric - Pa. P.U.C. No. 25, and grant all other relief as specified in this Formal Complaint.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Dated: May 25, 2021

By: /s/ John F. Povilaitis

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Counsel for Nationwide Energy Partners, LLC

VERIFICATION

I, Teresa Ringenbach, certify that I am Vice President of Business Development, for Nationwide Energy Partners, LLC, and that in this capacity I am authorized to, and do make this Verification on their behalf, that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that Nationwide Energy Partners, LLC, expects to be able to prove the same at any hearing that may be held in this matter. I understand that false statements made therein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.



Teresa Ringenbach
Vice President, Business Development
Nationwide Energy Partners, LLC

DATED: May 15, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Nationwide Energy Partners, LLC	:	
	:	
v.	:	Docket No. C-2021-
	:	R-2021-3024750
Duquesne Light Company	:	

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing document upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

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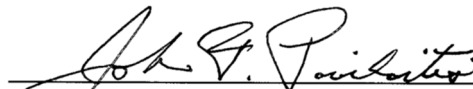
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Date: May 25, 2021



John F. Povilaitis

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Office of Consumer Advocate, Office of Small	:	Docket No. R-2021-3024750
Business Advocate	:	C-2021-3025538
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v.	:	C-2021-3026057
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Duquesne Light Company	:	

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing document upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

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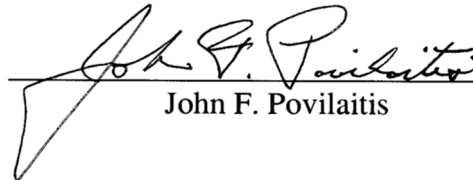
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Date: June 2, 2021


John F. Povilaitis