

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**Petition of Duquesne Light Company for  
Emergency Approval of Contingency  
Modification to Its Default Service Plan**

**Public Meeting held November 10, 2022  
3019522-TUS  
Docket No. P-2020-3019522**

**MOTION OF VICE CHAIRMAN STEPHEN M. DEFRANK AND  
COMMISSIONER RALPH V. YANORA**

Before the Pennsylvania Public Utility Commission (Commission or PUC) for consideration and disposition is the Petition (Petition) of Duquesne Light Company (Duquesne Light or Company) for Emergency Approval of Contingency Modification to Its Default Service Plan for the period June 1, 2021, through May 31, 2025 (DSP IX). In its Petition, Duquesne Light requests approval to implement an Emergency Contingency Plan (Contingency Plan) for the procurement of one unsubscribed tranche of default electric supply for its medium Commercial and Industrial (C&I) rate class.

By way of background, on September 19, 2022, Duquesne Light conducted a solicitation for four tranches of supply for medium C&I customers for the period December 1, 2022 through February 28, 2023. However, Duquesne Light was able to procure only three of the four needed tranches of its required default supply for this rate class. As a result, the Commission directed the Company to implement its Contingency Plan for the unfilled tranche (Unsubscribed Tranche). Under the Company's Commission-approved Contingency Plan, any unfilled tranche must be supplied through the spot market until the Commission approves an alternative supply arrangement.

On October 4, 2022, Duquesne Light filed the instant Petition, requesting Commission approval to modify its Contingency Plan. In its Petition, Duquesne Light states that it is requesting this modification because it is concerned about the volatility of the spot market at this time and believes that obtaining supply through the spot market should only be undertaken if the proposed options are not successful. Accordingly, the Company proposed three options for the solicitation of the Unsubscribed Tranche for its medium C&I customers.

Duquesne Light's first proposal is to implement a step-up offer whereby Duquesne Light's independent third-party Auction Manager would offer the wholesale suppliers that won the three filled medium C&I tranches the opportunity to accept the Unsubscribed Tranche at the auction clearing price. If multiple wholesale suppliers are willing to step-up, then the auction manager would allocate a pro-rata share of the Unsubscribed Tranche to each supplier based upon the percentage of load that each supplier won in the initial auction that was conducted on September 19, 2022.

Duquesne Light states that under its second option, if no wholesale supplier accepts the step-up offer, Duquesne Light would modify the unsubscribed three-month tranche to a 12-month tranche and its independent auction monitor would conduct a sealed bid auction for the 12-month product. Finally, Duquesne Light states that if neither option one nor option two succeeds, it would fill the three-month Unsubscribed Tranche from the spot market in accordance with DSP IX.

The Public Utility Code (Code) and Commission regulations require that default service providers such as Duquesne Light “provide electric generation supply service to [default supply] customer[s] pursuant to a commission-approved competitive procurement plan.” 66 Pa.C.S. § 2807(e)(3.1); *see also* 52 Pa. Code § 54.184(c). This plan must include electric power procured through one or more of the following methods:

- (i) Auctions.
- (ii) Requests for proposal.
- (iii) Bilateral agreements entered into at the sole discretion of the default service provider which shall be at prices which are:
  - (A) no greater than the cost of obtaining generation under comparable terms in the wholesale market, as determined by the commission at the time of execution of the contract; or
  - (B) consistent with a commission-approved competition procurement process. Any agreement between affiliated parties shall be subject to review and approval of the commission under Chapter 21 (relating to relations with affiliated interests). In no case shall the cost of obtaining generation from any affiliated interest be greater than the cost of obtaining generation under comparable terms in the wholesale market at the time of execution of the contract.

66 Pa.C.S. § 2807(e)(3.1).

Under Section 2807(e)(3.1)(iii)(B) of the Code, Duquesne Light’s step-up proposal is a bilateral agreement between the Company and the successful bidder(s) at prices which are “consistent with a commission-approved competition procurement process.” The Commission has previously approved a similar design to the step-up proposal contemplated here. Specifically, the Commission approved PECO Energy Company’s (PECO) current Default Service Program which included a two-stage auction for Solar Alternative Energy Credits (Solar AECs).<sup>1</sup> Stage one of the PECO program is a competitive procurement for Solar AECs and stage two utilizes the weighted average price result from stage-one to solicit further providers of Solar AECs.

Although the PECO matter concerned the procurement of Alternative Energy Portfolio Standards (AEPS) credits, Section 2807(e)(3.5) of the Code provides that:

(3.5) Except as set forth in paragraph (5)(ii), the provisions of this section shall apply to any type of energy purchased by a default service provider to provide

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<sup>1</sup> Opinion and Order entered December 2, 2020 at Docket No. P-2020-3019290.

electric generation supply service, *including energy or alternative energy portfolio standards credits required to be purchased under the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act.* The commission shall apply paragraph (3.4) to comparable types of energy sources.

66 Pa.C.S. § 2807(e)(3.5) (emphasis added). Accordingly, Duquesne Light's step-up proposal is consistent with the Commission-approved procurement process in the PECO matter and therefore complies with the bilateral agreement pricing requirements set forth in Section 2807(e)(3.1)(iii)(B) of the Code.

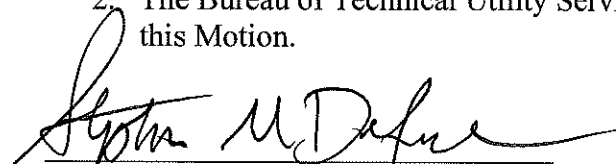
Further, we note that Section 54.186(d) of the Commission's Regulations provides as follows:

(d) The DSP may petition for modifications to the approved procurement and implementation plans when material changes in wholesale energy markets occur to ensure the acquisition of sufficient supply at the least cost to customers over time. The DSP shall monitor changes in wholesale energy markets to ensure that its procurement plan continues to reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3.1)—(3.4) (relating to duties of electric distribution companies)."

52 Pa. Code § 54.186(d). This section of the Commission's regulations acts as a safety net and requires Duquesne Light to actively monitor the wholesale energy market, including spot market prices, to ensure that the Company's default service plan continues to provide least cost energy to medium C&I customers.

**THEREFORE, WE MOVE THAT:**

1. Duquesne Light Company's Petition for Emergency Approval of Contingency Modification to Its Default Service Plan is hereby granted, consistent with this Motion.
2. The Bureau of Technical Utility Services prepare an Opinion and Order consistent with this Motion.

  
Stephen M. DeFrank, Vice Chairman

  
Ralph V. Yanora, Commissioner

**DATE: November 10, 2022**