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PENNSYLVANIA
UTILITY LAW PROJECT

November 30, 2020

Via E-File

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Petition of Duquesne Light Company for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Docket No. P-2020-3019522

Reply Exceptions of CAUSE-PA

Dear Secretary Chiavetta,

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) files these brief Reply Exceptions to the Exceptions of the EGS Parties.[1] Given the brief timeframe permitted for Reply Exceptions, and the absence of any new substantive or legal arguments warranting a more detailed response, CAUSE-PA is filing its Reply Exceptions in Letter format.

Specifically, CAUSE-PA files this abbreviated reply to the EGS Parties' Exception No. 4, which argues that customers enrolled in Duquesne's Customer Assistance Program (CAP) have a statutory right to shop for electricity while enrolled in the program, and that Deputy Chief Administrative Law Judge Mark A. Hoyer's Recommended Decision violates this claimed right by temporarily upholding the status quo while the exact issue is fully litigated in a separate proceeding.[2]

The EGS Parties' Exception 4 lacks merit and should be rejected in favor of ALJ Hoyer's legally sound and inherently prudent decision to approve the terms of the Joint Stipulation between Duquesne Light Company (DLC), the Office of Consumer Advocate (OCA), and CAUSE-PA with regard to the issue of CAP shopping.

[1] The EGS Parties include Interstate Gas Supply, Inc., Shipley Choice, LLC, NRG Energy, Inc., Vistra Energy Corp., Engie Resources LLC, WGL Energy Services, Inc., and Direct Energy Services, LLC.
[2] EGS Parties Exceptions at 5-6.

As explained at length in CAUSE-PA's Main and Reply Briefs, the decision to maintain the status quo in Duquesne's service territory is squarely in line with the Commission's statutory obligation to ensure that CAP is cost-effective and available to all those in need.[3] It is also the only option on the record which is responsive to and supported by the substantial and unrebutted record evidence that CAP shopping – even with carefully crafted restrictions – will result in substantial financial harm to low income customers and other residential ratepayers.[4]

The record in this proceeding reveals a clear and consistent pattern of excessive supplier pricing for residential and confirmed low income customers.[5]

- From January 1, 2017 to May 30, 2020, residential shopping customers were charged **$102,869,316.96** (net) more than the applicable price to compare (PTC).
    - On an average per-customer basis, residential shopping customers were charged **$131.86** more than the PTC in 2017; **$182.83** more than the PTC in 2018; **$238.55** more than the PTC in 2019; and **$95.87** more than the PTC from January to May, 2020.
- During the same 41-month period, confirmed low income (non-CAP) customers – with income at or below 150% of the federal poverty level (FPL) – were charged **$881,988** (net) more than the applicable price to compare.
    - In just the first three months of the COVID-19 pandemic (March to May, 2020), confirmed low income (non-CAP) shopping customers were charged an average of **$54.41** more than the applicable PTC.

As the record shows, it is likely that CAP customer will routinely exceed the price to compare if permitted to shop to electric service in the competitive market.[6] Exposing CAP customers to competitive market pricing that exceeds the applicable price to compare *for any length of time* will result in financial harm to economically vulnerable CAP participants and other ratepayers.[7] This is not an imagined or theoretical harm: Data from PPL Electric service territory reveals that, *notwithstanding implementation of carefully crafted CAP shopping restriction*s, CAP customers and other residential ratepayers continue to pay millions of dollars in avoidable costs as a result of CAP shopping.[8] In 2018 and 2019 alone, and *after* implementation of a special CAP shopping program, CAP shopping in PPL's service territory cost other residential ratepayers a net of over $7 million.[9]

Notably, DLC's original CAP shopping proposal was withdrawn pursuant to the Joint Stipulation, which means that the only CAP shopping proposal that remains on the record is that of the EGS

[3] CAUSE-PA MB at 15-17.
[4] CAUSE-PA MB at 17-36.
[5] CAUSE-PA MB at 9, 21-24; CAUSE-PA St. 1 at 7-20 & Exhibits 1, 2.
[6] CAUSE-PA MB at 9, 25-29; CAUSE-PA St. 1 at 44:8-12.
[7] CAUSE-PA MB at 9, 25-26; CAUSE-PA St. 1 at 46-48.
[8] CAUSE-PA MB at 9, 25-26; CAUSE-PA St. 1 at 46-48.
[9] CAUSE-PA MB at 9, 25-26; CAUSE-PA St. 1 at 46-48.

Parties, which would permit CAP customers to shop at any rate after the expiration of an initial 12-month contract.[10] As explained in CAUSE-PA's Main Brief, approval of such a proposal would undermine enforcement, would result in immediate and substantial financial harm to CAP customers and other residential ratepayers, and is wholly unsupported by record evidence.[11]

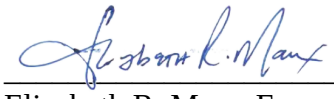
Contrary to the EGS Parties claim, all of DLC's residential customers – including those who are enrolled in CAP – will continue to have the right to shop in the competitive market, as they are currently permitted to do. Pursuant to DLC's current CAP rules, those who are enrolled in CAP merely have to remove themselves from the ratepayer subsidized program in order to exercise that right. As the Commonwealth Court has squarely concluded, "the PUC may impose CAP rules that would limit the terms of any offer from an EGS that a customer could accept and remain eligible for CAP benefits."[12] Such a rule does not run afoul of the Choice Act.

Finally, it is important to keep in mind that the Joint Stipulation of DLC, CAUSE-PA, and OCA, as approved by ALJ Hoyer, merely maintains the status quo, and leaves room for the potential that the issue may be further litigated pending resolution of the very same issue in the PPL Electric Default Service Plan proceeding.[13] Thus, ALJ Hoyer's resolution of this complex issue – which has far-reaching statewide implications – is prudent and avoids potentially duplicative litigation costs for the parties, the Commission, and other ratepayers.[14]

For these reasons, and as thoroughly explained in CAUSE-PA's Main and Reply Briefs, the EGS Parties' Exceptions should be denied and the Joint Stipulation between DLC, CAUSE-PA, and OCA, as adopted by ALJ Hoyer in his Recommended Decision, should be approved by the Commission without modification.

Copies of this letter will be circulated in accordance with the attached Certificate of Service.

Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



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[10] CAUSE-PA MB at 32-34.
[11] Id.
[12] CAUSE-PA et al. v. Pa. PUC, 120 A.3d 1087 (Pa. Commw. Ct. 2015).
[13] See Petition of PPL Electric Utilities Corp. for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Docket No. P-2020-3019356.
[14] CAUSE-PA MB at 30-32.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025	: : :	Docket No. P-2020-3019522

CERTIFICATE OF SERVICE

I hereby certify I have on this day served copies of the **Reply Exceptions of CAUSE-PA** in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) and consistent with the Commission's March 20, 2020 Emergency Order.

VIA EMAIL ONLY	
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