

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Petition of Duquesne Light Company for
Approval of a Default Service Program
and Procurement Plan for the Period
June 1, 2013 through May 31, 2015**

**Public Meeting held January 24, 2013
2301664-OSA
Docket No. P-2012-2301664**

PARTIAL DISSENT OF COMMISSIONER WAYNE E. GARDNER

Today, the Commission approves Duquesne's Default Service and Procurement (DSP) Plan for the two-year period beginning June 1, 2013. Duquesne designed and filed its DSP in accordance with its obligation to provide default service customers with reliable supply at least cost over time. In addition to a procurement plan, Duquesne also proposed certain competitive market enhancements in accordance with the Commission's recent *Intermediate Work Plan* Final Order.

The Intermediate Work Plan (IWP) directed Pennsylvania's large electric distribution companies (EDC) to design market enhancement programs with the goal of encouraging competitive shopping within those service territories. The IWP sets forth guidelines for several programs including a Retail Opt-In Auction (ROI) which was intended to introduce customers who have shown a reluctance to shop to the competitive marketplace. In the instant proceeding, Duquesne designed and proposed a Retail Opt-In Auction taking into account the guidelines provided in the *IWP Final Order* and the characteristics of its own DSP Plan. Specifically, Duquesne proposed to conduct an RFP to determine the winning EGS bidders for ten tranches of supply to serve customers that elect to participate; a fixed-price, twelve-month product; a minimum discount of 5% off the price to compare at the time of the offer; a \$50 bonus payment; a cap on customer participation of 50% of the default service customers in Duquesne's service territory; and a cap of 50% of the customers that any one EGS could serve. I believe that the 12-month opt-in term and the auction process for choosing suppliers that Duquesne proposed is reasonable.

Despite the Commission's acknowledgement in the *IWP Final Order* that it would need to be flexible and accommodate the unique situations of individual EDC default service plans,¹ the majority today modifies Duquesne's Opt-In proposal so that it will be identical to the programs adopted in two other DSP proceedings.²

I do not agree that we should modify Duquesne's Opt-In Program proposal and make it identical to the programs approved for the other utilities. Doing so is problematic for several reasons. First, Duquesne's DSP structure is unique among the group of utilities whose plans we have

¹ Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan, Docket No. I-2011-2237952 (Order entered March 1, 2012) at36-37.

² In FirstEnergy's DSP proceeding, the Commission drastically modified FirstEnergy's Opt-In auction proposal which had been based on the guidelines set forth in the *IWP Final Order*. The Commission directed an aggregation program rather than an auction with provisions markedly different from the previous guidelines. The Commission's modifications in First Energy were based on the fact that FirstEnergy's price to compare was reconciled and changed quarterly and on the specific facts of that case.

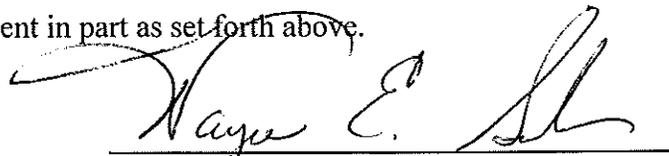
approved thus far so, a different Opt-In structure may be appropriate for Duquesne. For example, because Duquesne's PTC will only change twice per year, a 12-month opt-in term could work well for Duquesne. Also, Duquesne's proposal to utilize an auction process which would seek to procure a minimum of a 5% discount on the PTC is reasonable. While auctions tend to have more administrative costs, they also tend to produce competitive results and, in this case, could result in savings greater than 5% off of the PTC.

I also note that neither the Commission nor the companies have experience with these retail market enhancement programs. Although we expect that the retail market enhancement programs will succeed in increasing customer shopping, we do not know with certainty which structure or process will prove to be most successful. The Retail Market Investigation is an ongoing process, the results of which are not yet a foregone conclusion. The RMEs submitted by the EDCs will allow this Commission to evaluate what process or processes work to spur competition in the retail market. As such, it would be prudent to allow a diversity of program designs and then evaluate how they work. If all the program designs are identical, we will only know at the end of the programs how much shopping they engendered; we will not know if any variations would have increased shopping even more.

Therefore, I respectfully dissent in part as set forth above.

January 24, 2013

Date



Wayne E. Gardner, Commissioner