



Duquesne Light

Our Energy...Your Power

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September 28, 2015

Via Overnight Delivery

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
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Harrisburg, PA 17120

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SEP 28 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Duquesne Light Company's Answer to the Petition of the NRG Retail Affiliates for Clarification and/or Reconsideration of the Commission's September 3, 2015 Final Order
Docket No. M-2009-2092655

Dear Secretary Chiavetta:

Enclosed for filing please find Duquesne Light Company's Answer to the Petition of the NRG Retail Affiliates for Clarification and/or Reconsideration of the Commission's September 3, 2015 Final Order.

Should you have any questions please contact me.

Respectfully,

Tishekia E. Williams
Senior Counsel, Regulatory

Enclosure

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PENNSYLVANIA PUBLIC UTILITY COMMISSION SEP 28 2015

Submission of the Electronic Data Exchange :
Working Group's Web Portal Working :
Group's Solution Framework for Historical :
Interval Usage and Billing Quality Interval :
Usage :

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Docket No. M-2009-2092655

**ANSWER OF DUQUESNE LIGHT COMPANY
TO PETITION OF THE NRG RETAIL AFFILIATES FOR CLARIFICATION AND/OR
RECONSIDERATION OF THE COMMISSION'S SEPTEMBER 3, 2015 FINAL
ORDER, DOCKET No. M-2009-2092655**

I. INTRODUCTION

Pursuant to 52 Pa.Code §5.572, Duquesne Light Company ("Duquesne Light" or the "Company") hereby files this Answer to the *Petition of NRG Retail Affiliates for Clarification and/or Reconsideration of the Commission's September 2, 2015 Final Order, Docket No. M-2009-2092655*. Duquesne Light submits that the NRG Retail Affiliates' ("NRG") request must be denied because the Petition suffers two fundamental, fatal flaws. First, NRG fails to meet the Pennsylvania Public Utility Commission's ("Commission") standard for granting reconsideration. Second, the "factual" underpinning of the NRG Petition is comprised almost entirely of speculation and the so-called facts relied upon for the requested reliefs are largely incorrect or misleading.

II. BACKGROUND

1. Duquesne Light is a public utility as that term is defined under Section 102 of the Public Utility Code, 66 Pa. C.S. § 102, certificated by the Commission to provide electric service in the City of Pittsburgh and in Allegheny and Beaver Counties in Pennsylvania. Duquesne Light is

also an electric distribution company (“EDC”) and default service providers (“DSP”) as those terms are defined under Section 2803 of the Public Utility Code. 66 Pa. C.S. § 2803. As of June 30, 2015, Duquesne Light provides electric distribution service to approximately 587,839 customers and is currently the DSP for approximately 381,930 of those customers. |

2. Pursuant to Act 129 of 2008, P.L. 1592 (“Act 129”), Duquesne Light is required to procure and implement smart meter technology.

3. On December 6, 2012, the Commission entered a Final Order in the Smart Meter Procurement and Installation Docket No. M-2009-2092655, directing the Electronic Data Exchange Working Group (“EDEWG”) to convene a web-portal working group including all electric distribution companies (“EDCs”) required to submit smart meter technology and implementation plans, as well as other interested stakeholders to develop a standardized solution for the acquisition of historical interval usage (“HIU”) and billing quality interval usage (“BQIU”) data via a secure web-portal, for incorporation within each EDC’s smart meter technology and implementation plan.

4. In its Final Order, the Commission directed that the shorter term solution developed by the EDEWG working group should be a system that offers 12-months of HIU data via a secure web platform while the longer-term solution should be a system that provides BQIU data within 24 to 48 hours of daily meter reads. With respect to the longer term solution, the Commission provided that the EDEWG working group shall have till no later than March 1, 2015 to complete its development standards for the BQIU solution.

5. On or about February 17, 2015, the EDEWG working group filed its proposed short term and long term solutions for providing electric generation suppliers (“EGSs”), Conservation

Service Providers (“CSPs”) and Curtailment Service Providers (also “CSPs”) with HIU and BQIU data.

6. NRG filed a letter with the Commission in response to the EDEWG working group proposed solution on or about March 13, 2015. In that letter, NRG argued that the Commission should “require the EDCS to implement the Active EGS Rolling 10-Day Solution no later than the third quarter of 2015.” NRG also claimed that “an EGS’s ability to deliver product innovations that empower consumers to take control of their energy consumption hinges on timely access to their customers’ real time IU data every single day.”

7. On April 23, 2015, the Commission issued a Tentative Order regarding the Submission of the Electronic Data Exchange Working Group’s Web Portal Working Group’s Solution Framework for Historical Interval Usage and Billing Quality Interval at Docket No. M-2009-2092655. In its Tentative Order, pages 5-12, the Commission gave extensive consideration to NRGs allegations regarding implementation of the Active EGS 10-day solution while discussing the options for the System-to-System (“StS”) Solution. Therein, the Commission noted “NRG Retail avers that the Active EGS 10-day solution is the only proposed solution from the Framework that will provide EGSs with quick and easy access to customers’ 48-hour interval usage data. This data is necessary for the development of innovative products and the realization of the full value of smart meters. Therefore, NRG Retail believes that the EDC implementation of the Active EGS 10-day solution, and not the SU-MR option, should be required. NRG Retail believes this should be done by the end of the third quarter of 2015.”

8. In response to NRGs concerns, the Commission issue a Tentative Order which proposed mandatory inclusion of a StS solution that should be designed to scale efficiently with the volume of information from any increases in the number of smart meters or any additional

deployments, such as the Batch CSV file solution provided in the Framework. The Commission further provided that “because this Commission believes this is an important issue, we think that a standard implementation date is necessary to ensure that the web portals are created in a timely manner with the functionalities necessary to provide HIU and BQIU data as directed. ... [w]e believe the need for the StS functionality is of a time-sensitive nature. ... Due to the current smart meter deployment schedules, we believe the inclusion of this methodology in system upgrades within 12 months of the entry date of a Final Order in this proceeding to be reasonable.”

9. On May 26, 2015, NRG filed comments in response to the Commission’s Tentative Order. Therein, NRG commended the Commission for recognizing the importance a StS solution by proposing to require a mandatory StS solution for inclusion in EDC web portal implementation. However, NRG claimed that the Commission’s Tentative Order was vague as to which StS solution should be implemented and asked the Commission to clarify that EDCs are required to implement the Active EGS 10-day StS solution. NRG also requested that the Commission reconsider its proposed implementation timeline of 12 months and require EDCs to implement the Active EGS 10-day solution no later than four months from the date of the Commission’s Final Order in this Docket.

10. On September 3, 2015, after due consideration of the issues raised by all parties, the Commission issued a Final Order requiring that a single, uniform StS solution be developed and implemented across all EDCs with smart meter requirements. The Commission directed EDEWG to reconvene the web portal working group in order to develop, *but not implement*, a StS solution and provide the recommended StS solution to the Commission for its review and approval within six months of the entry date of the Final Order.

11. As the StS solution has not been fully developed, the Commission also modified its proposed implementation timeframe to require implementation of the StS solution within 14 months of the date of the Final Order.

12. On September 18, 2015, NRG filed a Petition for Reconsideration and/or Clarification of the Commission's Final Order issued September 3, 2015. Therein, NRG again requests that EDCs be required to provide EGSs access to BQIU data through the Active EGS 10-day Solution by December 31, 2015. In its Petition for Reconsideration, NRG rehashes many of the same arguments, particularly that the Active EGS 10-day Solution is necessary for EGSs to develop new products and services. Duquesne Light avers that NRG's Petition for Reconsideration should be denied.

III. NRG FAILED TO MEET THE COMMISSION STANDARD FOR GRANTING RECONSIDERATION BECAUSE THE COMMISSION HAS ALREADY CONSIDERED ITS ARGUMENT THAT EDCS SHOULD BE REQUIRED TO IMPLEMENT THE ACTIVE EGS 10-DAY SOLUTION ON A SHORTER TIMEFRAME.

13. The Commission's standards for granting reconsideration following final orders are set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1982):

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that "[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them...." What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

14. Additionally, a Petition for Reconsideration is proper where it pleads newly discovered evidence, alleges errors of law, or changes in circumstances. *Pennsylvania Public Utility Commission v. Jackson Sewer Corporation*, 2001 Pa.PUC LEXIS 44.

15. Although NRG has reframed its request for mandatory implementation of an Active EGS 10-day solution within 4 months as an issue of fair competition, the “facts” raised in its Petition for Reconsideration are far from new and novel. A review of NRGs March and April 2015 filings reveals that many of the same facts and arguments reemerge in its Petition for Reconsideration. Indeed, since March 2015, in each of its filings NRG has argued that 1) EDCs should be required to implement the Active EGS 10-day solution to provide EGSs with efficient and scalable access to customers BQIU data, 2) that this solution is the only adequate solution for EGSs, and 3) that implementation should be required in 2015 so that EGSs can develop new products and services to offer customers. NRGs request has been duly considered by the Commission and specifically decided against. Inasmuch as NRG has not raised new or novel issues, changes in circumstance, discovered new evidence or alleged errors of law, the Petition for Reconsideration should be denied.

16. Insofar as Duquesne Light can surmise, the so-called novel issue raised in NRGs Petition for Reconsideration is that the Commission may not have considered the alleged impact that its Final Order will have on EGSs ability to compete with CSPs to develop and offer “brand value added” products and services in the market, such as bill alerts. *NRG Petition at p. 1*. NRG claims that because it believes that some EDCs may be partnering with CSPs to provide similar products and services, failure to implement the Active EGS 10-day solution within 4 months violates the Electric Generation Customer Choice and Competition Act (“Competition Act”), 66 Pa.C.S. §§ 2803, 2804(2). *NRG Petition at p. 14*.

17. The Competition Act required public utilities to provide transmission and distribution services to EGSs, among others, on rates terms of access and conditions that are comparable to the utilities use of its own system. NRG argues that EDCs Commission approved Act 129 programs whereby IU data may be provided to CSPs violates the Competition Act. | Duquesne Light disagrees. The provisions of the Competition Act relied upon by NRG are irrelevant to question the presented, namely whether EDCs should be required to implement Active EGS 10 day solution to provide BQIU data to EGS by December 2015. It cannot be reasonably argued that the Competition Act somehow requires EDCs to develop and implement new technology solutions demanded by EGSs by December 2015 so that they might develop new products and services.

18. What's more, assuming for the sake of argument that some EDCs have contracted with CSPs to offer similar products and services by making BQIU data available to CSPs via an Active 10-day solution, this information is certainly not new or novel.¹ In its Petition, NRG plainly states that EDCs have had such programs pursuant to Act 129 since 2010. *NRG Petition at p. 2*. Inasmuch the Commission approved the very programs discussed by NRG, which are mandated by Act 129, Duquesne Light posits that it is unlikely that the Commission failed to appreciate that similar product and services may be available in the market now. In each filing, NRG plainly stated that its interest in the Active EGS 10-Day solution is in the ability to develop "value added" products and services. Accordingly, the EGSs ability to offer these products and services was implicitly considered, the availability of similar Commission-approved programs was obviously known to the Commission, and the request for reconsideration should be denied.

¹ Duquesne Light also notes that to the extent the EDCs have partnered with CSPs to offer such products and service without implementing an Active 10 day solution, these programs are affirmative evidence that NRGs claims that an Active 10 day Solution is the only viable method for EGSs to bring these products and services to market are incorrect.

IV. THE FACTUAL UNDERPINNING OF NRGs PETITION FOR RECONSIDERATION IS INACCURATE OR MISLEADING, AND THEREFORE SHOULD NOT FORM THE BASIS FOR A COMMISSION ORDER MANDATING EDC IMPLEMENTATION OF ACTIVE 10-DAY SOLUTION BY DECEMBER 31, 2015.

A. The Commission's Final Order does not exclude the Active EGS 10-day solution proposed by NRG.

19. NRGs Petition for Reconsideration is largely premised on alleged "facts" which are incorrect. NRG claims that the Commission's Final Order "does not provide any direction regarding Active EGS 10 day process which, while not a StS option, could be implemented to provide EGSs timely, efficient and scalable access to BQIU now." *NRG Petition at p. 9, 18.* This statement is incorrect. In recognition that various security and technical issues have not been fully considered as it relates to StS solutions,² the Commission ordered EDEWG to reconvene the web portal working group to develop a StS solution for consideration by the Commission within 6 months of the date of the Final Order. The Active 10-day solution was in fact contemplated as a possible StS solution in the EDEWG working group February 17, 2015 submission. The Commission's Final Order provides no indication that the Active EGS 10 day should not be considered. It certainly does not suggest that the EDEWG working group may not propose an Active EGS 10-day solution as it part of its StS solution. Presently, there are more than 80 licensed EGSs in Duquesne Light's service territory. NRGs Petition for Reconsideration is merely an attempt to bypass the broad stakeholder process and force its preferred solution, on its preferred timeline, on all involved parties. The request should be denied.

² Duquesne Light notes that the issues related to the StS solution were not fully vetted in part because NRG and other EGSs bypassed the web portal working group process by advocated for mandatory inclusion of a StS solution after the web portal submitted its proposal to the Commission.

B. Duquesne Light does not provide its CSPs with BQIU as a part of its Energy Efficiency Conservation and Demand Response or Smart Meter Programs.

20. NRG alleges that EDCs, particularly PECO Energy and PPL, offer various “retail products and services” that are only available through leveraging BQIU data. *NRG Petition at p. 10.* NRG states that PECO and “Duquesne Light Power Company³” have contracted with Opower, a registered CSP to provide real-time performance monitoring such as proactive energy alerts. *NRG Petition at p. 12.* As Duquesne Light does not provide BQIU data to Opower, it is clear that these so-called retail products and services are not contingent upon EDCs providing third parties with access to BQIU.

21. Additionally, Duquesne Light notes that in the Commission’s Final Order, it adopted PECO Energy’s definition of BQIU data. As such, “bill quality data” is defined as data that is sourced from an EDC’s meter data management system that has completed the process of being verified, estimated and edited, in association with such systems. *Smart Meter Procurement and Installation Final Order*, Entered December 6, 2012, p. 16-17. While Duquesne Light cannot speak to programs offered by PECO Energy, Duquesne Light does not provide its CSPs with BQIU data via an Active 10-day solution or otherwise. Today only validated interval data is provided to a single CSP.⁴ Any inference or allegation to the contrary is again incorrect. NRG’s claims that CSPs are provided with greater access to interval data is incorrect as it relates to Duquesne Light.

22. Today, Duquesne Light provides up to 12 months of interval data to EGSs via manual email request. As acknowledged by NRG, see, *NRG Petition at p.19*, EGSs may also obtain interval usage data via EDI, in addition to the manual process. Contrary to NRGs allegations,

³ Duquesne Light believes that NRG is referring to “Duquesne Light Company” as opposed to “Duquesne Light Power” or another entity.

⁴ Duquesne Light has included a disclaimer on the Opower site which specifically states that the data provided is not BQIU.

there is no inequity with regards to access to data provided to CSPs verses EGSs. The Commission should adhere to its plan for the EDEGW working group to fully vet the issues associated with a StS solution, including a potential Active EGS 10-day solution and propose a comprehensive plan for implementation and avoid any undue rush to conclusion.

22. Finally, as Duquesne Light is not presently providing BQIU data to CSPs, it does not have the infrastructure in place to develop an Active EGS 10-day solution to provide EGSs (or CSPs) with provide EGSs with BQIU data by December 31, 2015. Inasmuch as NRG has not provided an accurate, compelling reason to justify any change to the Commission's Final Order and Implementation timeline, its request should be denied.

II. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Honorable Commission enter an Order Denying NRGs Petition for Reconsideration.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. § 1.54 (relating to service by a participant).

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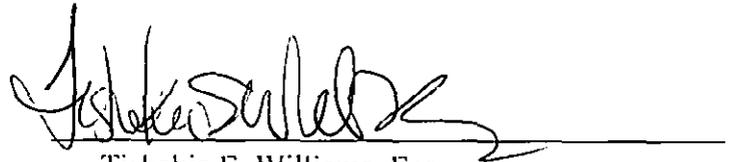
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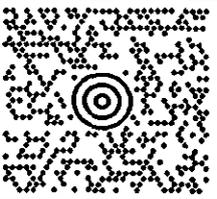
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