Duquesne Light
Our Energy...Your Power

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May 9, 2016

ELECTRONICALLY FILED

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Re: **Petition of Direct Energy Services, LLC Expand Retail Enhancements**
Docket No. P-2016-2535033

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Answer in Opposition to Direct Energy LLC's Petition to Restart the Retail Opt-In Retail Market Enhancement that has been filed with the Commission today.

If you have any questions regarding the enclosed please feel free to contact the undersigned. Thank you.

Sincerely,

Shelby Linton Keddie/acw

Shelby Linton-Keddie
Manager, State Regulatory Affairs
And Senior Legal Counsel

Enclosure
c: Jennedy Johnson, Esquire (w/ enc.)
Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILTY COMMISSION

Petition of Direct Energy Services, LLC to Expand Retail Enhancements	: : :	Docket No. P-2016-2535033

DUQUESNE LIGHT COMPANY'S ANSWER IN OPPOSITION TO DIRECT ENERGY SERVICES LLC'S PETITION TO RESTART THE RETAIL OPT IN RETAIL MARKET ENHANCEMENT

On March 18, 2016, Direct Energy Services, LLC ("Direct Energy") filed a Petition with the Pennsylvania Public Utility Commission ("PUC" or "Commission"), requesting that the PUC restart a self-described modified version of a Retail Opt-In ("ROI") Retail Market Enhancement. Upon review of this Petition, the Commission, on March 24, 2016, directed that Direct Energy serve its Petition on all other electric distribution companies ("EDCs") and electric generation suppliers ("EGSs") serving in both the PPL Electric Utilities Corporation ("PPL") and PECO Energy Company ("PECO") service territories.

Although dated on March 28, 2016, Duquesne Light Company ("Duquesne Light" or "Company") did not receive the above-referenced Petition until March 31, 2016. In answer to the April 13, 2016, request of the Retail Energy Supply Association ("RESA") for an extension in filing Answers, the Commission issued a Secretarial Letter on April 14, 2016, extending the due date for Answers until May 9, 2016. Consistent with the referenced Secretarial Letter and 52 Pa. Code §5.61, Duquesne Light is timely filing this Answer in Opposition, requesting that the Commission deny Direct Energy's Petition in its entirety.[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 EDC and

[1]Duquesne Light has purposefully not addressed every aspect of the proposed ROI in this Answer in Opposition. The absence of comment on any aspect of the proposal should not be construed as acquiescence or approval of those program characteristics. Should the ROI be entertained by the Commission and further Orders, including comments, be issued, Duquesne reserves its right to comment on any and all proposals that are included.

default service provider as those terms are defined under Section 2803 of the Public Utility Code. 66 Pa. C.S. § 2803.

At its core, after noting that the Commission unilaterally postponed the ROI in April 2013[2] and has done nothing to resurrect this program since that time, Direct Energy seeks a pilot program to begin in October of 2016, initially confined to the PPL and PECO service territories, for EDCs to pay for a one-time mailing to non-shopping residential and small business customers (25 kW or less) for an opt-in offer consisting of: (1) a 24-month generation product that is 5% of the Price to Compare ("PTC") at the time of contracting (with no cancellation or early termination fee for the commodity); combined with (2) a value-added, energy saving or energy management product or service at no additional charge (but presumably with some sort of cancellation/early termination fee for the value added product, since the Petition is silent in this regard).[3] See Direct Petition at 1. Other than being termed a ROI product and being a one-time offer brought to the attention of residential and small C&I customers through an EDC mailing, there are no similarities between this proposal and the ROIs contemplated in 2012/2013.[4]

After the pilot, Direct Energy recommends that the Commission should evaluate the results and accept comments from interested parties. Direct Petition at 15. Thereafter, it is further contemplated that the PUC "would then consider that terms and conditions under which it would be responsible to order the continued roll-out of the ROI in the service territories of the other major EDCs." Id. (emphasis added).

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[2] *See Petition of PECO Energy Company for Approval of tis Default Service Program II, et seq.*, Docket Nos. P-2012-2283641, et seq., Final Order on Reconsideration entered April 4, 2013 ("ROI Reconsideration Order") at 6-7.

[3] According to Direct Energy's Petition, examples of a value-added, energy saving or energy management product could include: (1) a connected home or business device or system which helps manage energy utilization; (2) a smart thermostat; (3) an energy management tool such as providing disaggregated load by appliance; (4) an energy audit; (5) a heating and cooling maintenance plan or furnace and air-conditioner system inspection and tune-up or (6) a credit toward roof-top solar or other energy saving distributed energy installation. Direct Petition at 13.

[4] The ROI program that was postponed is summarized by Direct Energy as follows: "[T]he ROI Program would provide subscribing customers with a four-month discount from the EDC's PTC, followed by an eight-month, fixed price offer from participating [EGSs] at prices determined by suppliers and upon review by the PUC. The discount for the four-month term was required to be at least 5% lower than the PTC at the time of the offer. Customers who remained in the ROI Program for the first four months would have received a $50 bonus. There would be no penalty for leaving the ROI at any time. Any EGS that agreed to provide the required ROI offer was permitted to participate. Each EDC would send a mailer to non-shopping customers describing the offer." Direct Petition 7-8.

Because this proposal has the potential to directly affect Duquesne Light and its ratepayers, Duquesne has standing to participate in this proceeding.[5]

ANSWER IN OPPOSITION

Despite the fact that on a statewide basis retail shopping is on an upswing and there are at least 69 residential products and 45 small non-residential products advertised on PAPowerSwitch.com that offer value added products/services other than renewable energy, cash back or % off incentives,[6] Direct Energy posits that switching levels have "plateaued somewhat" and that customer awareness of energy efficiency EGS offers are "likely low given a traditional, 'one sale at a time' approach." Direct Petition at 2. Noticeably absent are any metrics as to the number of customers that have taken advantage of these 114 offers. Regardless, and as summarized below, Direct Energy seeks a modified ROI program that:

(1) Offers customers a 24-month fixed price;

(2) Provides customers purported "added-value" products and services; and

(3) Supposedly better facilitates the overall development of energy-efficiency, demand response, and connected home devices through increased consumer participation in the competitive market.

See Direct Petition at 3.

In addition to proposing a ROI product that gives ratepayers no guaranteed savings over the PTC for the duration of the program and only promises no cancellation fee for the commodity portion of the product, Direct Energy's proposed ROI would require EDCs to subsidize costs for a one-time mailing to advertise the program[7] and notably includes essentially a Commission "seal of approval" via some sort of certification that an offer contains an "energy saving or energy management product or service," thereby

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[5] This fact has already been recognized by the Commission, who, upon noting not only the Petition's impact directly on PECO and PPL as well as EGSs that serve in both territories, but also all jurisdictional EDCs, required Direct Energy serve its Petition on all EDCs, including Duquesne Light. *See Secretarial Letter Re: Petition of Direct Energy Services, LLC to Expand Retail Market Enhancements*, dated March 24, 2016.

[6] *See* Attachments B and C of the Direct Energy Petition.

[7] While Direct Energy suggests that costs should be collected as decided for previously approved ROIs, note that in Docket No. P-2012-2301669, Duquesne Light proposed that EGSs would pay for any ROI mailing. Duquesne Light would vigorously oppose any suggestion that EDC customers, rather than EGSs, pay for any portion of the ROI here.

having the practical effect of the Commission forcing EDCs to subsidize or, at minimum, promote EGS products that directly compete with EDCs' mandated Act 129 EE&C Programs. Direct Petition at 13. This should not be allowed.

Nothing like this certification or endorsement/authorization/facilitation by the PUC currently exists. Other than the July 28, 2014 Press Release referenced *infra* when the PUC was recognized for the Standard Offer Program being an award winning innovation, Duquesne Light knows of no other time that the Commission has ever claimed responsibility or association for a particular retail electricity product or offering, specifically designing and redesigning PaPowerSwitch.com in a way that is neutral in nature. More troubling is the notion that the Commission would be certifying products and services that could be perceived by customers as indicating some sort of guarantee that use of the "energy saving or energy management product or service" will save customers energy and presumably money. There is no such guarantee because one can't be made. At most, there can only be a guarantee of the **potential** to save energy and money. Again, because there is an early cancellation fee or some sort of charge that would be attached to the "value added" portion of the product should a customer decide to leave this program and the discounted price only attaches at the time a customer enrolls, it is specious to assume that customers are guaranteed any savings over the life of this product offering.

Further, Duquesne Light has serious concerns of what type of effect such a program, if successful by objective standards, would have on EDCs' Act 129 obligations. Notably, this program, as proposed, would be Commission directed but outside of Act 129 and although advertised by EDCs, would be carried out by EGSs. The practical result of such a construct is that it would compete with the statutory obligation of EDCs to achieve mandated reductions in energy and peak load that were recently reviewed and approved by the Commission in March of 2016, weeks before the subject Petition was filed. While Direct Energy attempts to address this fact by suggesting that "once the PUC orders the ROI restart as proposed here, it convene a collaborative to discuss Act 129 coordination,"[8] this proposal is woefully

[8] Direct Petition at 17 n.41

inadequate and does nothing to address the fact that the ROI, as contemplated by Direct Energy, would compete with, not be subsumed by EDCs' Phase III Plans.

Direct Energy admits on page 8 of its Petition that the previously contemplated ROI programs were unilaterally postponed by the Commission in 2013, with the understanding that such postponement would continue "until after **[the Commission]** had the opportunity to consider the ongoing result of the Standard Offer Customer Referral Program." Direct Petition at 8 (emphasis added). The Commission is well aware of the success of the Standard Offer Customer Program and in fact has been recognized by the state for its success, winning the "Best Customer Service Innovation" award in July of 2014 at the 2014 Innovation Expo.[9] In addition, the Commission receives monthly updates from EDCs and posts the referral and enrollment numbers for the Standard Offer Program on PaPowerSwitch.com, which it has done since 2013.

Despite this continued review and consideration of the "ongoing result of the Standard Offer Customer Referral Program," the Commission, has not, on its own, restarted the ROI. In fact, the Commission, in March 2015, relieved EDCs of annually mailing Commission-endorsed postcards to residential and small business customers, meant to educate customers on their ability to choose a competitive supplier and promote PaPowerSwitch.com.[10] Why the Commission would unilaterally dispense of annual mailings, directed at residential and small business customers, meant to generally educate them of their ability to shop for generation supply in 2015 and approximately a year later require EDCs not only to mail something to these same classes but also to describe a particular retail offer "endorsed/authorized/facilitated" by the PUC is inapposite. The Commission is well aware of the success of the Standard Offer Program as well as the retail electric shopping statistics and yet to date has chosen to not pursue the ROI program, in any form. This inaction should not be overlooked.

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[9] *See* PUC Press Release "PUC Reminds Consumers that Award-Winning Electric Choice Standard Offer Program Offers Immediate Savings" (July 28, 2014).

[10] *See* Secretarial Letter *Re: Revised Directive on the annual mailing of a Commission-endorsed postcard* (March 19, 2015).

Duquesne Light further takes issue with the proposition that retail electric shopping has "plateaued." Direct Petition at 9. When compared to the number of shoppers at the end of December 2015 (2,041,729), the most recent report by the PUC shows that, as of April 27, 2016, there are 2,070,280 total switching customers, an increase of more than 28,500 shoppers for the first third of 2016.[11] This increase in shopping is happening under the current construct, and is further proof that there is no need of a retail market "jump start" as Direct Energy suggests.

There is nothing that Direct Energy has shown in its Petition, other than its desire to have EDCs subsidize yet another mailing on behalf of EGSs with the added benefit of PUC certification/endorsement/authorization/facilitation of a product that EGSs can then use, without limit, to market that product to residential and small business customers. With admittedly more than 100 similar statewide offerings already in existence targeted to the groups aimed at in this proposal and organic growth in retail shopping occurring on its own, the Commission should not grant the relief that Direct Energy seeks. Nothing prevents Direct Energy, or any EGS, to offer "value added" products to consumers. The existence of more than 100 of these offerings illustrates this fact.

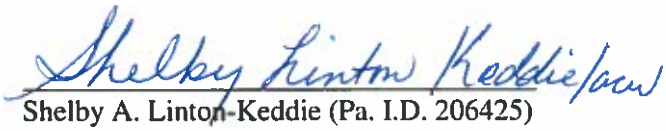
Direct Energy suggests that the PUC, in the past, has characterized a truly competitive market as "one in which there are low barriers to entry, many sellers, many buyers and offerings of products." Direct Energy Petition at 6. As shown in Attachments B and C, this already exists. There are literally hundreds of options on a statewide basis for residential and small commercial customers, and more than 2 million customers have chosen to shop. With shopping numbers improving on their own, absent such regulatory "push," the market should develop free of regulatory intervention.

[11] *See* PAPowerSwitch Monthly Update – Switching to an Electric Generation Supplier (December 2015, April 2016).

CONCLUSION

The Commission has, on numerous occasions since the inception of the Electricity Generation Customer Choice and Competition Act, created programs and facilitated education (in large measure paid for by electric distribution company customers) to keep Pennsylvania's retail competitive electric market not only afloat, but viable during challenging market conditions. This is a **competitive** market – Duquesne Light asks just that – that retail electric competition be allowed to stand on its own. There is no need to grant Direct Energy's Petition that seeks to resurrect the ROI – in any form - something that the Commission itself has chosen not to pursue. Accordingly, Duquesne Light requests that the Petition be denied in its entirety.

Respectfully submitted,



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Date: May 9, 2016

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Duquesne Light Company's Answer in Opposition to Direct Energy's Petition to Restart the Retail Opt-In Retail Market Enhancement was served upon the persons listed below by placing in U.S. Mail, First Class, in accordance with the requirements of 52 Pa. Code Section 1.54 and via e-filing on the Pennsylvania Public Utility Commission system, Docket No. P-2016-2535033:

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Dated: May 9, 2016