

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

September 29, 2016

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of Duquesne Light Company for
Approval of a Default Service Plan for the
Period from June 1, 2017 through May 31,
2021
Docket Nos. P-2016-2543140

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Statement in Support to the Joint Petition for Settlement in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Kristine E. Marsilio

Kristine E Marsilio
Assistant Consumer Advocate
PA Attorney I.D. #316479

Attachment

cc: Honorable Conrad A. Johnson, ALJ
Certificate of Service

226148

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company :
For Approval of its Default Service :
Plan for the Period June 1, 2017 : Docket No. P-2016-2543140
Through May 31, 2021

STATEMENT OF THE
OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF THE JOINT
PETITION FOR SETTLEMENT

The Office of Consumer Advocate (OCA), a signatory party to the Joint Petition for Approval of Non-Unanimous Settlement (Joint Petition or Settlement) in the above-captioned proceeding, respectfully requests that the terms and conditions of the Settlement be approved by Administrative Law Judge Conrad A. Johnson (ALJ Johnson) and the Pennsylvania Public Utility Commission (Commission). It is the position of the OCA that the proposed Settlement is in the public interest and in the interests of the customers of Duquesne Light Company (Duquesne Light or the Company)

I. INTRODUCTION

On May 2, 2016, Duquesne Light filed a Petition for Approval of its Default Service Plan for the Period from June 1, 2017 through May 31, 2021 (Petition or DSP VIII), as well as approval of the Company's (i) Time-of-Use (TOU) Program, (ii) Standard Offer Program (SOP), (iii) Customer Assistance Program (CAP), and other approvals required for the implementation of the DSP (Petition). Along with its Petition, Duquesne submitted the written, direct testimony of C. James Davis (Duquesne Light Statement No. 1), John Peoples (Duquesne

Light Statement No. 2), Neil S. Fisher (Duquesne Light Statement No 3), David B. Ogden (Duquesne Light Statement No. 4), and Marcie Morrison (Duquesne Light Statement No. 5).

The Petition was assigned to the Office of Administrative Law Judge and was further assigned to ALJ Johnson for investigation, the scheduling of hearings, and preparation of a Recommended Decision. On May 23, 2016, ALJ Johnson issued a Prehearing Conference Order indicating that an Initial Prehearing Conference was scheduled for June 10, 2016.

On June 6, 2016, the OCA filed an Answer in response to the Company's Petition and a Notice of Intervention and Public Statement. The following parties also intervened in this proceeding: NextEra Energy Power Marketing, LLC (NextEra); the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA); Noble Americas Energy Solutions, LLC (Noble); the Retail Energy Supply Association (RESA); the Office of Small Business Advocate (OSBA); and Exelon Generation Company, LLC (ExGen). The Commission's Bureau of Investigation and Enforcement (I&E) also filed a Notice of Appearance.

On June 10, 2016 ALJ Johnson convened a Prehearing Conference, at which time a litigation schedule was established. On July 7, 2016, Duquesne Light filed the Supplemental Direct Testimony of John Peoples (Duquesne Light Statement No. 2A). Pursuant to the litigation schedule, the following parties submitted written, direct testimony on July 14, 2016: I&E (Direct Testimony of Anthony Spadaccio, I&E Statement No.1); CAUSE-PA (Direct Testimony of Harry Geller, CAUSE-PA Statement No. 1); RESA (Direct Testimony of Matthew White, RESA Statement No. 1); and the OCA (Direct Testimonies of Steven Estomin¹ and Barbara Alexander,² OCA Statement Nos. 1 and 2, respectively).

¹ Dr. Estomin is a Senior Economist and Principal with Exeter Associates, Inc. Dr. Estomin holds B.A., M.A., and Ph.D. degrees in economics from the University of Maryland. He has been employed in the area of energy, utility, and telecommunications consulting for over 34 years, working on a wide range of issues. Most of his

On August 11, 2016, the following parties served Rebuttal Testimony: CAUSE-PA (Rebuttal Testimony of Harry Geller, CAUSE-PA Statement No. 1-R); the OCA (Rebuttal Testimonies of Steven Estomin and Barbara Alexander, OCA Statement Nos. 1-R and 2-R, respectively); the OSBA (Rebuttal Testimony of Brian Kalcic, OSBA Statement No. 1-R); RESA (Rebuttal Testimony of Matthew White (RESA Statement No. 1-R); Duquesne Light Company (Rebuttal Testimonies of C. James Davis, John A. Peoples, Neil S. Fisher, David B. Ogden, and Marcie Morrison, and Duquesne Light Statement Nos. 1-R, 2-R, 3-R, 4-R, and 5-R, respectively).

On August 23, 2016, the following parties served Surrebuttal Testimony: Duquesne Light (Surrebuttal Testimony of Marcie Morrison, Duquesne Light Statement No. 5-SR); RESA (Surrebuttal Testimony of Matthew White, RESA Statement No. 1-S); and the OCA (Surrebuttal Testimonies of Steven Estomin and Barbara Alexander, OCA Statement Nos. 1-SR and 2-SR, respectively).

On August 26, 2016, Duquesne Light served the Rejoinder Testimonies of Neil S. Fisher (Duquesne Light Statement No. 3-RJ) and David B. Ogden (Duquesne Light Statement No. 4-RJ).

work has focused on electric utility integrated planning, load forecasting, environmental issues, power supply procurement and market-related issues, and renewable energy issues. Dr. Estomin has provided expert witness testimony in more than 45 regulated proceedings in various jurisdictions. His testimony has addressed a variety of subjects including resource planning, load forecasting, competitive restructuring, rate design, weather normalization, statistical analysis, default service supply procurement, and other issues.

² Ms. Alexander is a Consumer Affairs Consultant. She is a graduate of the University of Michigan and the University of Maine School of Law. She has appeared before over 20 U.S. and Canadian regulatory and legislative bodies, provided expert testimony in regulatory proceedings to adopt and enforce consumer protection policies for retail energy markets, and published papers and reports on consumer protection policies and programs that should govern regulated utility and competitive energy supply services for residential customers. She has appeared before the Commission on behalf of the OCA in numerous proceedings since 1998 relating to the implementation of retail electric and natural gas competition, consumer protection regulations applicable to retail electric suppliers, default service policies, retail market enhancement programs, and in utility rate cases relating to customer service and reliability of service performance.

An evidentiary hearing was held on August 30, 2016, at which time all preserved, written testimony was admitted into the record, and ALJ Johnson sought clarification of several issues from the parties' counsel.

The parties engaged in a number of settlement discussions during the course of this proceeding. As a result of these settlement discussions, the Company, the OCA, the OSBA, CAUSE-PA, RESA, and ExGen (collectively, Joint Petitioners) were able to agree to resolve all contested issues in this proceeding, resulting in the Settlement terms and conditions that were filed in this proceeding on September 23, 2016. I&E and NextEra did not oppose the Settlement. Noble has indicated that it opposes Paragraph 22 of the Settlement. As discussed below, the OCA submits that the Settlement is in the public interest and should be adopted.

II. SETTLEMENT BENEFITS FOR RESIDENTIAL CUSTOMERS

Through the testimonies of Dr. Estomin and Ms. Alexander, the OCA supported many aspects of the Company's Petition as filed for residential customers. Additionally, the OCA proposed several modifications which are addressed in the Settlement that will provide benefits to the public and to the Company's residential ratepayers.

A. Residential Procurement Plan

The Settlement provides that Duquesne Light's residential procurement plans will be approved. Settlement at ¶ 15. In its Petition, Duquesne Light proposed that default service for residential customers be supplied through a combination of 12-month and 24-month, laddered supply contracts, with delivery periods overlapping on a semiannual basis. Petition at ¶ 8; see also Duquesne Light Statement No. 2 at 7. Accordingly, default service rates will change twice annually. Duquesne Light Statement No. 2 at 7. Specifically, the Company proposes a product mix consisting of 50% laddered, one-year, FPFR supply contracts and 50% laddered, two-year, FPFR supply contracts. Petition at ¶¶ 8, 9. The Company proposes to procure four (4)

residential contracts with delivery periods that extend beyond the end of the DSP period. Petition at ¶ 10.

The OCA submits that the residential procurement plan proposed by Duquesne Light and adopted in the Settlement is in the public interest, as it will help to ensure price stability. Duquesne Light's witnesses provided substantial testimony in support of the Company's residential and small C&I procurement plan. See e.g. Duquesne Light Statement No. 1 at 10-11; see also Duquesne Light Statement No. 2 at 8-9; see also Duquesne Light Statement No. 3 at 18-26. For example, Company witness John Peoples testified as follows in support of the Company's residential and small C&I procurement plan:

The proposed mix of one-year and two-year FPFR products and the semi-annual overlapping of their delivery periods will provide Residential and Small C&I customers greater assurances of price stability than the Company's current supply portfolios [which consists exclusively of one-year FPFR supply contracts to serve these customers]. This modification reduces the likelihood of significant rate changes due to adverse circumstances or market conditions at any given time.

Duquesne Light Statement No. 2 at 8.

The OCA also provided testimony in support of the Company's proposal. For example, OCA witness Dr. Steven Estomin testified as follows regarding Duquesne Light's proposed power supply products, "My assessment is that the products that Duquesne is proposing to use to meet its residential Default Service obligations provide a reasonable balance between price stability, market responsiveness, and Act 129 directives." OCA Statement No. 1 at 8. Furthermore, Dr. Estomin provided testimony in support of the Company's proposed use of "overhanging contracts." See OCA Statement No. 1 at 9-10. Dr. Estomin explained the benefit of "overhanging contracts" as follows:

"Overhanging" contracts are used to avoid the problem of a "hard stop," which occurs when 100 percent of a new portfolio needs to be procured at the beginning of the subsequent Default Service Plan period because all of the power purchase agreements expire at the conclusion of the prior Default Service Plan period. The potential price shock of a new set of prices being put into effect at the beginning

of the subsequent plan period is reduced by Duquesne's proposal to procure power contracts in what I would term a "steady state" schedule.

OCA Statement No. 1 at 9.

The OCA submits that the Settlement is in the public interest, as it adopts a procurement plan for residential customers that will help to ensure reasonable prices and rate stability.

B. Unbundling and Purchase of Receivables (POR)

The Settlement provides that Duquesne Light will unbundle the costs set forth in Exhibit DBO-3-R, effective June 1, 2017. Settlement at ¶ 20. These costs include those incurred from external legal and consulting services to prepare and obtain approval of the default service plan and cash working capital costs. See Exhibit DBO-3-R. Additionally, the Settlement provides that the Company will eliminate the uncollectible accounts component of the POR discount for EGSs, effective June 1, 2017, and recover a fixed uncollectible expense amount of \$797,900 in the Company's non-bypassable Rider 1 RMES until the next base rate proceeding. Settlement at ¶ 22. Under the Settlement, all parties reserve the right to propose changes to the amounts and procedures for unbundling costs and to propose changes to the discount for PORs in future base rate proceedings filed by the Company. Settlement at ¶ 22.

The OCA submits that the Settlement provisions relating to unbundling and the POR program are a reasonable compromise of the various positions taken by RESA, the Company, and the OCA. Specifically, the OCA submits that the costs to be unbundled pursuant to the Settlement are consistent with the outcomes in recent DSP proceedings filed by other EDCs and are, in the OCA's view, within the range of the likely outcome in the event of full litigation of this case. As such, the OCA submits that the Settlement is reasonable, in the public interest, and should be adopted.

C. Customer Assistance Program (CAP) Customer Shopping

Currently, Duquesne Light's CAP customers receive generation service through the Company's default service plan. The Settlement requires the Company to conduct a CAP shopping collaborative with the parties in the fall of 2018 and file for approval of a CAP shopping program to become effective June 1, 2021, provided that the Commission has approved other electric distribution company CAP shopping programs, which were successfully implemented. Settlement at ¶ 25.

The OCA submits that this Settlement provision is in the public interest. The OCA notes that the Company has indicated that its billing system likely cannot accommodate CAP shopping until late in DSP VIII. See Duquesne Light Statement No. 5-SR at 2-5. Additionally, as explained by Ms. Alexander in her Rebuttal Testimony:

[Duquesne Light] currently does not allow Customer Assistance Program (CAP) customers to enroll with an EGS [...]. [Duquesne Light] has proposed a collaborative to discuss the development of a CAP shopping program. While this collaborative approach is reasonable, it will be important to develop a CAP shopping program that is designed to ensure that these low-income customers do not suffer higher and unaffordable bills or that other ratepayers are not required to pay higher costs to support this program. I continue to support this overall criterion for any CAP shopping program.

OCA Statement No. 2-R at 2. The OCA submits that this Settlement provision will enable the Company and the parties to thoroughly consider CAP shopping issues and develop a program that will be beneficial to CAP customers and the public prior to the implementation of CAP shopping.

D. Standard Offer Program (SOP)

In its filing, Duquesne Light proposed to continue its current SOP. Petition at ¶¶ 58-60. Currently, the Company does not use a third party vendor for SOP enrollment. Petition at ¶ 60. The customer acquisition fee is paid for by participating EGSs and is currently \$10.28 per enrollment. Petition at ¶ 59.

The Settlement allows for the continuation of the SOP, but makes certain modifications to Duquesne Light's Standard Offer Program (SOP) scripts, requires the Company to train its customer service representatives on the required SOP disclosures, and conduct a periodic review of call recordings to ensure that the representatives are providing the required disclosures. See Settlement at ¶¶ 26-27.

The OCA submits that the continuation of the SOP with the modifications outlined in the Settlement is in the public interest and the interest of Pennsylvania's ratepayers. Ms. Alexander explained in her Direct Testimony that Duquesne Light's SOP has been cost effective and that the Company charges a significantly lower enrollment fee than other Pennsylvania Electric Distribution Companies (EDCs). OCA Statement No. 2 at 8-9. Additionally, Ms. Alexander testified that the Company's method of implementing the SOP by referring interested customers directly to an EGS (as opposed to utilizing a third party vendor) is a reasonable and low cost method to implement this program. Id. at 5. The Settlement does not modify Duquesne Light's customer acquisition fee or establish the use of a third party vendor for customer enrollment. As such, the OCA submits that the Settlement is in the public interest.

The OCA submits that the modifications to the SOP script are also in the public interest, as the new script language provides more detail regarding how the SOP fixed price offer will compare to the Price to Compare during the 12-month enrollment period. Additionally, the requirements of the Company to train customer service representatives on required disclosures and conduct a period review of call recordings will help to ensure that the Company's customer service representatives are providing the required disclosures to its customers.

III. CONCLUSION

The OCA submits that the Joint Petition for Approval of Non-Unanimous Settlement provides a reasonable resolution to the Company's DSP filing by adopting a procurement plan for residential customers that will help to ensure price stability, requiring a stakeholder collaborative to discuss CAP shopping, and enhancing customer disclosures for the Company's SOP. For the foregoing reasons, the Office of Consumer Advocate submits that the proposed Settlement is in the public interest and in the best interest of the Company's ratepayers.

Respectfully Submitted,

Kristine E. Marsilio

Kristine E. Marsilio
Assistant Consumer Advocate
PA Attorney I.D. # 316479
E-Mail: KMarsilio@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: September 29, 2016
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CERTIFICATE OF SERVICE

Petition of Duquesne Light Company :
For Approval of Default Service Plan : P-2016-2543140
For the Period June 1, 2017 :
Through May 31, 2021 :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Statement in Support of the Joint Petition for Settlement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 29th day of September 2016.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Gina Lauffer, Esquire
Bureau of Investigations and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL and FIRST CLASS MAIL

Michael W. Gang, Esquire
Anthony D. Kanagy, Esquire
Post & Schell
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Duquesne Light Company

Tishekia Williams, Esquire
Adrienne D. Kurtanich, Esquire
Duquesne Light Company
411 Seventh Avenue, 16th Fl.
Pittsburgh, PA 15219

Sharon Webb, Esq.
Assistant Small Business Advocate
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
Office of Small Business Advocate

Todd S. Stewart
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
NextEra

Patrick Cicero, Esquire
Elizabeth R. Marx, Esquire
Joline Price, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
CAUSE-PA

Charles E. Thomas III, Esquire
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 600
Harrisburg, PA 17101
Noble Americas

Colleen P. Kartychak
Consolidated Edison Solutions
698 Gamble Road
Oakdale, PA 15071
RESA

H. Rachel Smith, Esquire
Exelon Business Service Corp.
100 Constellation Way, Suite 500C
Baltimore, MD 21202
ExGen

Brain R. Greene
GreeneHurlocker, PLC
1807 Libbie Avenue, Suite 102
Richmond, VA 23226
RESA

/s/ Kristine E. Marsilio
Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Kristine E Marsilio
Assistant Consumer Advocate
PA Attorney I.D. #316479
E-Mail: KMarsilio@paoca.org

Counsel for
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
226149