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September 29, 2016

BY ELECTRONIC FILING

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 Default Service Plan
For The Period June 1, 2017 Through May 31, 2021***
Docket No. P-2016-2543140

Dear Secretary Chiavetta:

Enclosed for filing in the above referenced matter please find the Retail Energy Supply Association's Statement in Support of Joint Petition for Settlement. Copies have been provided pursuant to the attached Certificate of Service.

Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads 'Brian R. Greene'.

Brian R. Greene

Enclosures

cc: Service List (see Certificate of Service)
Honorable Conrad A. Johnson

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company
for Approval of a Default Service Plan * Docket No. P-2016-2543140
for the Period June 1, 2017, through *
May 31, 2021 *

CERTIFICATE OF SERVICE

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

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/s/ Brian R. Greene
Brian R. Greene

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for :
Approval of Default Service Plan for the : Docket No. P-2016-2543140
Period June 1, 2017 through May 31, 2019 :

**RETAIL ENERGY SUPPLY ASSOCIATION’S
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT**

I. Introduction

The Retail Energy Supply Association (“RESA”)¹ submits this Statement in Support of the Joint Petition for Approval of Non-Unanimous Settlement (“Settlement”) resolving all issues among RESA, Duquesne Light Company (“Duquesne”), the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania, and Exelon Generation Company, LLC (collectively the “Settling Parties”) regarding the above-captioned Petition of Duquesne in this proceeding.² RESA is a non-profit organization and trade association of retail energy suppliers who share the common vision that robust and sustainable competitive retail energy markets deliver more efficient, customer-oriented outcomes than regulated utility structures. RESA members include several companies that are licensed electric generation suppliers (“EGSs”) in Pennsylvania and sell, or are authorized to sell, electric energy in Duquesne’s service territory.

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² Noble Americas Energy Solutions, LLC notified the Commission on September 23, 2016, that it opposes Paragraph 22 of the Settlement relating to the purchase of receivables discount rate.

The Settlement addresses all of the issues in this proceeding. In RESA's view, the Settlement is acceptable as a package deal and includes provisions that will aid in the development of retail competition in the Duquesne service territory. The compromises reflected in the Settlement address certain concerns raised by RESA regarding Duquesne's initial proposal. Specifically, the Settlement:

- 1) accepts Duquesne's Residential, Small Commercial and Industrial ("C&I"), Medium C&I, and Large C&I procurement portfolios;
- 2) provides for more timely unbundling of certain costs associated with the provision of default service from distribution rates than what Duquesne had initially proposed, while also eliminating certain costs from the EGS discount rate under Duquesne's Purchase of Receivables ("POR") program;
- 3) postpones CAP shopping pending the outcomes of related proceedings involving other Pennsylvania Electric Distribution Companies ("EDCs"); and
- 4) continues Duquesne's Standard Offer Program ("SOP") with certain revisions to its SOP script.

For the following reasons, RESA recommends that the Settlement be approved.

II. The Commission Encourages Settlements.

The policy of the Commission is to encourage settlements, and the Commission has ruled in prior default service plan proceedings that partial settlements, such as the Settlement in this case, "may significantly reduce the time, effort and expense of litigating a case. A settlement,

whether whole or partial, benefits not only the named parties directly, but, indirectly, all customers of the public utility involved in the case.”³ The Commission continued that:

Regulatory proceedings are expensive to litigate, and the reasonable cost of such litigation is an operating expense recovered in the rates approved by the Commission. Partial or full settlements allow the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and replies to exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yielding significant expense savings for the company’s customers. For this and other sound reasons, settlements are encouraged by long-standing Commission policy.⁴

Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a settlement such as that proposed here, the Commission must determine that the proposed terms and conditions are in the public interest.⁵ As explained below, the Settling Parties that executed the proposed Settlement represent a broad and diverse group of stakeholders who have all compromised certain positions in a collaborative effort to resolve the issues in this proceeding.

III. RESA Recommends Approval of the Settlement.

A. Procurements

The Settlement calls for approval of Duquesne’s proposed Residential, Small Commercial & Industrial (“C&I”), Medium C&I, and Large C&I procurement proposals.⁶ As discussed below, RESA raised concerns with regard to Duquesne’s proposed procurement plans

³ *Petition of Duquesne Light Company for Approval of a Default Service Program for the Period from June 1, 2015 through May 31, 2017*, P-2014-2418242, Opinion and Order at 11 (issued Jan. 15, 2015) (internal citation omitted).

⁴ *Id.*

⁵ *Id.* at 11-12 (citing *Pa. PUC v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991)).

⁶ Settlement at ¶¶ 15-18.

for each customer class, but was able to reach a compromise on these issues in the context of the overall Settlement.

1. Residential and Small Commercial & Industrial

RESA opposed Duquesne's proposal to transition from laddered, one-year, wholesale full-requirements supply contracts to 50% laddered one-year full-requirements contracts and 50% laddered two-year full-requirements contracts to procure the supply for Residential and Small C&I default service customers.⁷ Instead, RESA recommended continuation of the status quo, which was adopted for the current default service plan period, DSP-VII, and which consists of 100% laddered one-year full-requirements contracts to procure Residential and Small C&I default service supply.⁸

RESA explained in testimony that Duquesne (and others) had supported the current procurement structure as consistent with Pennsylvania law, and that there had been no changes in the law or facts to warrant a change to the procurement structure, including the move towards two-year contracts. In RESA's view, the current procurement structure resulted in stable default service rates for Residential and Small C&I customers, and the testimony did not support Duquesne's argument that the inclusion of two-year contracts was necessary to prevent "significant" rate changes.⁹ RESA also explained that injecting longer-term supply contracts into the default service portfolio would result in less market-reflective default service rates, a step in the wrong direction for the development of the competitive retail supply market in the Duquesne service territory.¹⁰

⁷ RESA Statement No. 1 at 19-20.

⁸ *Id.* at 20.

⁹ *Id.* at 20-21.

¹⁰ *Id.* at 21.

While RESA did not agree with Duquesne's procurement structure proposal for Residential and Small C&I default service customers or the arguments Duquesne presented in support of its proposal, RESA was able to compromise on this issue as a part of the overall Settlement.

2. Medium and Large Commercial & Industrial

RESA recommended two changes to Duquesne's Medium and Large C&I default service structures. Both of RESA's recommendations would result in more market-reflective default service prices for a greater number of Duquesne's current Medium and Large C&I default service customers. Furthermore, RESA's proposals are consistent with the Commission's prior order expressing support for a threshold of 100 kW for purposes of determining medium and large C&I customers, so long as the customers had interval meters.¹¹

First, RESA recommended a two-phased approach to reduce the upper threshold of Medium C&I customer eligibility from 300 kW down to 200 kW in phase one, and then down to 100 kW in phase two.¹² Duquesne proposed reducing the upper threshold from 300 kW down to 200 kW effective June 1, 2019, but, unlike RESA, did not provide for any subsequent incremental reduction to 100 kW.¹³ As RESA Witness White explained, over 75% of the customers between 100 and 300 kW are already shopping, demonstrating that these customers are able and willing to shop for their electricity.¹⁴ Moreover, there are only 511 customers between 200 kW and 300 kW that are not shopping, and 1,177 customers between 100 kW and 200 kW that are not shopping, and there is no reason why Duquesne could not deploy smart

¹¹ *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service* at 29, Docket No. I-2011-2237952 (Order at 31, entered February 15, 2013).

¹² RESA Statement No. 1 at 22.

¹³ *Id.*

¹⁴ *Id.*

meters and associated equipment to accommodate hourly price service for these customers by June 2018 and June 2019, respectively.¹⁵ While RESA continues to support reducing the ceiling for Medium C&I default customer eligibility down to 100 kW, RESA is able to instead support Duquesne's proposal to reduce the threshold only to 200 kW, effective June 1, 2019, as a part of the Settlement.

Second, RESA recommended that Duquesne either continue the hourly-priced service ("HPS") pricing mechanism from DSP VII for Large C&I customers or charge real-time hourly prices similar to PPL and the FirstEnergy EDCs.¹⁶ By contrast, Duquesne proposed to charge HPS customers 100% of their actual hourly usage using the day-ahead hourly energy prices.¹⁷ RESA testified that including a component of real-time pricing in the HPS structure results in more market-reflective pricing and allows customers to modify their usage in response to hourly price signals to a greater extent than they can if their price does not reflect real-time pricing.¹⁸ However, RESA was again able to compromise on this issue in the context of the Settlement and now supports Duquesne's Large C&I procurement proposal as a part of the overall Settlement. RESA also supports Duquesne's proposal to bid out the provision of HPS, another reason to support the Settlement.

B. Unbundling

RESA identified in testimony over \$34 million in costs that Duquesne incurs in providing default service but which Duquesne currently recovers through regulated distribution rates.¹⁹ As a result, RESA testified that Duquesne had not properly unbundled its default service related

¹⁵ RESA Statement No. 1-S at 28.

¹⁶ RESA Statement No. 1 at 24 (citing Duquesne Statement No. 2 at 14 n.6).

¹⁷ *Id.* at 23.

¹⁸ *Id.* at 24.

¹⁹ *Id.* at 8-16, Exhibit MW-5.

costs as required by Pennsylvania law and the general ratemaking principle of cost-causation and avoiding subsidized rates.²⁰ Under the Settlement, Duquesne has identified \$2 million of costs to unbundle and has testified that this would be above the current level of unbundling of other Pennsylvania EDCs.²¹ Duquesne has also agreed to unbundle these identified costs by June 2017 as opposed to a later date.²² As discussed below, the timing of the unbundling under the Settlement is consistent with RESA’s testimony and the amount of unbundling is an important initial step towards a further unbundling in future years. To that end, the Settling Parties reserved the right to “propose changes to the amounts and procedures” for unbundling costs and modifying the discount for POR in future proceedings.²³

1. Timing

The Settlement provides that Duquesne will unbundle many default service-related costs effective June 1, 2017.²⁴ RESA raised very serious concerns about Duquesne’s initial proposal to defer unbundling until the earlier of its next distribution rate case or June 1, 2020.²⁵ RESA Witness White explained why unbundling of all default service-related costs from its distribution rates *in this proceeding* is mandated by both Pennsylvania law and the terms of the partial settlement agreement in Duquesne’s last default service plan proceeding.²⁶ Nevertheless, Duquesne’s commitment to partial unbundling of default-service related costs by June 1, 2017, is far better than Duquesne’s initial proposed timing and constitutes a reasonable compromise

²⁰ *Id.* at 4, 7-12.

²¹ Duquesne Statement No. 3-R at 21-14; Settlement at ¶ 20.

²² Settlement at ¶ 20.

²³ *Id.* at ¶ 23.

²⁴ *Id.* at ¶ 20-21.

²⁵ RESA Statement No. 1-S at 11-13.

²⁶ RESA Statement No. 1 at 4-7.

position in this proceeding. Therefore, RESA supports the unbundling compromise in the Settlement.

2. Purchase of Receivables

Under the Settlement, Duquesne will eliminate the uncollectible accounts component of the discount rates for EGSs under the POR program, but the administrative cost component of the POR discount rate (0.1%) will be retained.²⁷ Duquesne will eliminate the current portion of the EGS discount rate related to the increment EGS uncollectible costs, instead recovering such costs in its non-bypassable Retail Market Enhancement (“RME”) surcharge.²⁸ The remaining POR discount rate would be the 0.1% for “incremental ongoing operating and administrative costs associated with the POR program.”²⁹ Duquesne Witness Fisher testified that this change could be accomplished by including the dollars collected from the calendar year 2015 EGS discount in Duquesne’s RME Surcharge.³⁰ The result, Witness Fisher testified, would be to “maintain the current level of collections related to uncollectible costs while eliminating this component of the EGS discount that was established in the POR Agreement.”³¹

As RESA Witness White explained, RESA generally supports this concept, but has concerns about the name of the RME surcharge and the retention of the 0.1% charge to EGSs to cover “administrative costs.”³² While the compromise position on this issue in the Settlement is not perfect, RESA supports this position as an important step towards a more level playing field between default service and the competitive marketplace.

²⁷ Settlement at ¶ 22.

²⁸ Duquesne Statement No. 3-R at 32-33.

²⁹ *Id.* at 33.

³⁰ *Id.*

³¹ *Id.*

³² RESA Statement No. 1-S at 9-10.

C. CAP Shopping

The Settlement calls for CAP shopping to be postponed until June 1, 2021, at the commencement of DSP IX, before which Duquesne will conduct a CAP shopping collaborative with the parties to develop a CAP shopping proposal to be included in Duquesne's DSP IX filing.³³ Postponing CAP shopping as set forth in the Settlement will also allow time for implementation of other EDCs' CAP shopping programs, following Commission approval.³⁴ RESA generally supports a CAP shopping plan that includes consideration of implementation costs, timing, and customer education.

Moreover, while RESA supports CAP shopping and believes that CAP customers should have immediate access to the myriad benefits and options that the competitive marketplace can provide, RESA was willing to compromise on this issue at this time. RESA remains concerned, however, about Duquesne's initial proposed restrictions on the types of offers that an EGS may provide to low-income customers based solely on their enrollment in a utility's CAP.³⁵ However, the details of a CAP shopping program in the Duquesne service territory should be addressed in the collaborative called for in the Settlement and, as necessary, in Duquesne's DSP IX proceeding. By that time, the Commission will have considered and ruled upon similar CAP-related issues being litigated in DSP proceedings for other EDCs, which will provide guidance as Duquesne develops and implements its CAP shopping program.

D. Standard Offer Program

The Settlement calls for the use of the SOP script specified in paragraph 26 of the Settlement. OCA had argued that the scripts should be modified to remove the reference to the

³³ Settlement at ¶¶ 24-25.

³⁴ *Id.* at ¶ 25.

³⁵ RESA Statement No. 1 at 24; RESA Statement No. 1-S at 30.

“7% discount off today’s Price to Compare.”³⁶ RESA staunchly opposed elimination of the important, accurate statement from the script. RESA supports the script language specified in the Settlement, which retained the specified pricing disclosure.

OCA also proposed that Duquesne not continue its SOP in any future period without first conducting a “survey or focus group” of SOP customers to “determine their opinion of the program” and “test their knowledge” of the program.³⁷ There is no evidence that the current SOP has resulted in customer complaints or consumer protection issues. Moreover, the program provides an important function, helping to educate customers about retail electric choice and familiarize them with the concept of shopping for their electric supply.³⁸ While RESA did identify two issues regarding the SOP that should be addressed in the future, Duquesne’s current SOP should continue. Specifically, RESA witness White noted that (1) “the SOP has not resulted in a majority of Duquesne customers participating in the competitive market (currently 68% of residential customers in Duquesne’s service territory are not shopping)[]”; and (2) the SOP emphasizes price as the determining factor in a shopping decisions, without educating customers about the other value added products and services that the competitive market can make available to them.³⁹ Nevertheless, the current SOP provides an important and valuable function for Duquesne customers and the competitive marketplace. Therefore, RESA supports continuation of the current SOP into DSP VIII as set forth in the Settlement.

³⁶ OCA Statement No. 2 at 12.

³⁷ OCA Statement No. 2 at 5.

³⁸ RESA Statement No. 1-R at 5.

³⁹ RESA Statement No. 1-R at 5-6.

IV. Conclusion

The Settlement is not a perfect disposition of this proceeding for RESA nor, in all likelihood, for other Settling Parties. The Settlement includes provisions that contradict RESA's litigation positions in this proceeding, such as the procurement structures for each class of default service customers. That said, the Settlement includes incremental steps towards a more complete unbundling of default service-related costs from distribution rates in a timely manner that should improve the state of competition in Duquesne's service territory. The Settlement also includes a more favorable POR discount rate that should level the playing field between EGS offerings and default service. Therefore, RESA supports the Settlement as a balanced resolution of the numerous issues in this proceeding, and RESA requests that the Commission approve the Settlement.

Respectfully submitted,

RETAIL ENERGY SUPPLY ASSOCIATION

By Counsel



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Date: September 29, 2016

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