Duquesne Light
Our Energy...Your Power

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May 31, 2016

ELECTRONICALLY FILED

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: **Proposed Policy Statement on Combined Heat and Power**
Docket No.: M-2016-2530484

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Comments regarding the Proposed Policy Statement on Combined Heat and Power at the above-referenced docket.

If you have any questions regarding the information contained in the comments, please contact the undersigned.

Sincerely,

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

Enclosure

c: Joe Sherrick, TUS (via e-mail)
Kriss Brown, LAW (via e-mail)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Policy Statement on	:	
Combined Heat and Power	:	**Docket No. M-2016-2530484**

COMMENTS OF
DUQUESNE LIGHT COMPANY

On February 25, 2016, the Pennsylvania Utility Commission ("PUC" or "Commission") issued a *Proposed Policy Statement on Combined Heat and Power* ("CHP") to amend its regulations in Chapter 67, Subchapter C of the Pennsylvania Code (*"Proposed Policy Statement"* or "Order"). The *Proposed Policy Statement* was published in the Pennsylvania Bulletin on April 16, 2016. *See* 46 Pa.B. 1902. Pursuant to the *Proposed Policy Statement*, interested parties had forty-five days from the date of publication in the *Pennsylvania Bulletin* to file comments, *i.e.*, on or before May 31, 2016. Consistent with the *Proposed Policy Statement*, Duquesne Light Company ("Duquesne Light" or "Company") hereby files comments for the Commission's consideration.[1]

As articulated in the *Proposed Policy Statement*, the Commission seeks to impose biannual reporting obligations (that sunset after 8 years) on electric distribution companies ("EDCs") and natural gas distribution companies ("NGDCs"), identifying numerous requirements in a self-described attempt by the Commission to promote CHP investment as well as the consideration of special natural gas rates for owners and operators of CHP facilities. *Policy Statement Order at* 2. Other goals of the *Proposed Policy Statement* include encouraging

[1] Duquesne Light is a member of the Energy Association of Pennsylvania, who is also submitting Comments at this Docket. In addition to the positions stated herein, Duquesne Light supports the positions articulated in EAP's comments. In addition, Duquesne Light will not be addressing every aspect of the policy statement and companion order in its Comments. As such, to the extent further comments are filed at this docket, Duquesne Light reserves the right to comment on all other issues and topics not covered here but relevant in this proceeding.

EDCs and NGDCs to make CHP an integral part of their Energy Efficiency and Conservation ("EE&C") and resiliency plans, as well as marketing and outreach efforts and encouraging these utilities to design interconnection and standby rates for owners and operators of CHP facilities. *Id.*

Duquesne Light does not oppose CHP in its service territory or the proposed expansion of CHP, provided it is based on sound concepts of economics, safety and cost allocation. What concerns the Company, however, is the implication that appears to suggest that the perceived lag in CHP development in the Commonwealth is due, in large part, to utility policies that create "barriers to such development." Order at 2. Duquesne Light simply does not believe this to be the case. Conversely, rather than a lack of utility policies or procedures to make CHP more viable, the Company believes that, at least in its service territory, the economics for CHP projects are the deciding factor for customers.

Duquesne Light has no concerns reporting the number and nameplate capacity of existing CHP systems and those that are placed in service every two years (without other customer specific identifying information), when available. The Company has significant concerns, however, regarding obligations to report facilities in discussion stages, as many customers seek to keep that information confidential. In addition, the Company is concerned about any expectation by the Commission that CHP should be artificially expanded, encouraged or subsidized simply because the PUC believes today that CHP is an underutilized viable technology. As explained in more detail below, the Company is also concerned with the PUC's conclusion that CHP, by itself, does anything to improve reliability or safety of an EDC's distribution system. Finally, Duquesne Light has some concerns about the ambiguity of the

proposed information requested and does not believe that a Policy Statement is the most effective mechanism to address the issues articulated in its Order.

COMMENTS

A. Rather than difficult or unworkable utility policies, problems preventing CHP development are largely the fundamental economics of CHP, including costs related to siting and air permits.

Despite acknowledging that participants in the 2014 *En Banc* hearings on CHP pointed to factors such as difficulty in justifying capital investment and costs associated with purchasing back up power during planned maintenance and unplanned downtime, the PUC focuses its effort on looking to streamline and possibly change utility interconnection standards and fees as a way to "remove barriers" for CHP development. *See Policy Statement Order* at 1-2.

Noticeably absent from the Order and the list of proposed requirements in the *Proposed Policy Statement* itself is a discussion of what are the perceived problems with the current applications, interconnection standards and timelines working with EDCs when customers seek to get projects online. The most detailed explanation of areas in which the Commission opines that utilities could improve CHP policies came from a resuscitation of the American Council for an Energy-Efficient Economy's ("ACEEE") findings in its 2015 evaluation and ranking of statewide methodology used to encourage the deployment of CHP systems. *See Proposed Policy Statement Order* at 4-5. With current policies in place, including opportunities in EDCs' EE&C Plans, inclusion of CHP as part of the Alternative Energy Portfolio Standards Act ("AEPS") and supportive state policies around the encouragement of CHP, Pennsylvania tied for 7th place and is within the top ten states for CHP development.[2]

Duquesne Light is currently aware of six customer-owned operating systems in its service territory that may be considered CHP, with a few in early discussion stages. It is extremely

[2] *See* The 2015 State Energy Efficiency Scorecard, October 2015, Report U1509, pp. 73-75.

difficult for the Company to know, with certainty, the exact penetration of CHP on its system. This is due to the fact that systems that are completely behind the meter, do not replace native load and do not backfeed on the distribution system are essentially invisible to the Company. While we attempt to contact customers and are seeking ways to better document where we suspect use of CHP, unless the Company receives actual confirmation, we can only make guesses as to its actual use in the Duquesne Light service territory.

It is the Company's experience that CHP projects, when in either planned or discussion stages, often do not come to fruition. A majority of the time, final decisions on whether to move forward with these projects are dependent on factors completely outside an EDC's ability to control: gas expansion costs, project payback periods, lower power prices, and air permitting issues, costs and timeframes, etc. To that end, the Company asks that the Commission be cognizant of these realities prior to invoking any specific requirements on EDCs regarding the expansion of CHP.

Interconnection Standards and Applicable Tariff Provisions

As stated in the presentation given by Duquesne Light at the October 2014 Pittsburgh *En Banc* CHP hearing, the Company has refined its interconnection process and works to be responsive to customers seeking to install self-generation, including CHP. To that end, we routinely work with our customers to complete systems studies, help install interconnection equipment when necessary and conduct cost effectiveness and energy savings potential analyses if connected to a Watt Choices (Duquesne Light's EE&C) program.

The Company also has a back-up power rate (Rider 16) for customers who self-generate either through use of CHP or other technologies but utilize back-up power from the Company's distribution system when the CHP facility is not operational. Under this tariff provision,

customers have distribution rates based on their contract load. These distribution charges are applied monthly, independent of whether back-up power was actually used in any month. Distribution charges of $2.50 per kW are applied to billing determinants in excess of contract demand. This rider, which has been recently revised, approved by the Commission and in effect since May 1, 2014, explains the circumstances under which this rate applies.[3]

Air and Permitting Issues

An often overlooked potential obstacle to CHP development is permitting issues related to these installations. Depending on the size, fuel choice and corresponding emissions of a CHP system, permits may be needed that can create issues and add costs and delays significant enough to halt a project in its steps.

Specifically, installation of new gas-fired generation (*e.g.*, CHP) will result in the emissions of air pollutants that can impact air permitting requirements in Pennsylvania.[4] Depending on the potential emissions from the facility, different air permitting requirements will be implicated. The new facility will either be classified as a "minor source" or a "major source" based on the potential to emit ("PTE") air pollutants, with nitrogen oxides ("NOx") likely being the primary pollutant of concern.

A new facility will qualify as a "minor source" if the PTE remains below specified numeric thresholds expressed in tons per year ("tpy"). The relevant threshold for NOx is 100 tpy. For a new facility with a PTE less than 100 tpy NOx, Pennsylvania regulations require plan approval (which is a minor source pre-construction air permit) prior to construction of an air contamination source. *See* 25 PA Code §127.11. No construction on the facility is allowed to

[3] *See* Duquesne Light Company Rider No. 16, Supp. No. 91 to Electric- PA PUC No. 24, Fifth Revised Page No 101 Cancelling Fourth Revised Page No. 101.

[4] For example, facilities located in Allegheny County will be subject to Allegheny County Health Department regulations. Other facilities in Pennsylvania, except those in the Philadelphia area, will be subject to emissions standards contained in Pennsylvania Department of Environmental Protection ("DEP") regulations.

proceed until the plan approval is obtained. The estimated timeframe for obtaining a plan approval can vary in different parts of the state, but is generally less than 12 months. The plan approval will contain emission limits that represent application of the best available technology (BAT), along with testing, monitoring, recordkeeping and reporting requirements.

However, if the new facility has a PTE above the "major source" thresholds, additional, more onerous, permitting requirements apply with potentially significantly higher project costs. For a project with a PTE equal to or greater than 100 tpy NOx, the project will trigger Non-attainment New Source Review ("NSR") and Prevention of Significant Deterioration ("PSD").[5] NSR applies in areas not meeting the national ambient air quality standards ("NAAQS") while PSD applies in areas attaining the NAAQS. Pennsylvania is located in the Northeast Ozone Transport Region designated under Section 184 of the Federal Clean Air Act. Accordingly, the entire state is considered moderate ozone nonattainment for air permitting purposes, regardless of the actual air quality.

If NSR and PSD are triggered, then the facility must meet best available control technology ("BACT") under PSD, and lowest achievable emission rate ("LAER") under NSR. This normally requires the installation of either select catalytic reduction ("SCR") equipment or select non-catalytic reduction ("SNCR") equipment to reduce NOx emissions. SCR and SNCR controls on a gas-fired CHP facility will significantly increase the total cost of the project. In addition, air quality modeling will be required under PSD to demonstrate that the facility will not cause or contribute to nonattainment with the NAAQS. Finally, the facility will need to purchase and use emission reduction credits ("ERCs") at a ratio of more than 1:1 under NSR. The timing

[5] NSR applies based on the ozone NAAQS and Pennsylvania being considered nonattainment for ozone (and NOx being a precursor to ozone). PSD applies based on the NO2 NAAQS and Pennsylvania being attainment for NO2.

for obtaining the PSD and NSR permits is significantly longer than a plan approval and generally takes closer to 24 months.

Again, Duquesne Light requests that the Commission be cognizant of factors such as these permitting requirements as possible obstacles to additional CHP deployment in the Commonwealth.

B. The suggestion that customer owned CHP can, by itself, enhance reliability and safety of the distribution grid should be reconsidered.

One of the articulated benefits of CHP as stated in the *Proposed Policy Statement* is that CHP can improve reliability of an electric distribution grid. *Proposed Policy Statement Order* at 3. Specifically, the *Proposed Policy Statement* itself states that "CHP systems can be an integral part of the defense to natural disasters and man-made attacks on the electric distribution system." *Policy Statement* at 1. The Company respectfully disagrees that CHP, by its mere existence, can enhance reliability during either a distribution system attack or widespread natural disaster.

Customer owned CHP is generally used as base load supply for that individual customer for a majority of its energy needs with the customer still dependent on the EDC distribution system on a daily basis. The Commission implicitly recognizes this fact when defining CHP broadly as "a form of distributed energy that is an integrated system...that provides *at least a portion of* the electrical load...." *Proposed Policy Statement* at 1. (emphasis added).

While customer owned CHP may arguably provide increased reliability for individual customers on a daily basis, it does not improve the reliability of the electric distribution grid unless the customer decreases demand during an outage. Moreover, to the extent that a customer is not able to replace all its energy needs with a CHP system, they would need other installations, working in concert with CHP, in order to do anything meaningful long-term on a reliability basis to avoid the need for electricity from the distribution system.

In addition, other issues related to CHP installations and reliability include the fact that without actual and constructive knowledge of the amount of CHP as well as the functioning nameplate capacity of those installations, it is unclear to what extent, if at all, CHP should be taken into account in EDC distribution system planning/hardening on a going forward basis. This is due, in part, to the fact that maintenance and operation of individual customer CHP systems are outside the purview of an EDC. It is also due to the reality that distribution upgrades and planning take place years in advance of actual construction. With more CHP projects proposed and never completed than those that come online as anticipated and no control over customer demand, EDCs do not have the luxury or confidence of basing design and hardening decisions for its distribution system on the promise of customer proposed CHP installations.

EDCs have numerous statutory and regulatory standards that cannot be delegated to individual customers. These standards, among others, include the statutory obligation of EDCs to provide adequate, efficient, safe and reasonable service within its certificated service territory. *See* 66 Pa. C.S. §1501. Without control, inspection, or actual knowledge of individual customers' CHP systems (especially when completely behind the meter), there is no guarantee that Duquesne Light could adhere to these obligatory statutory standards nor is the Company willing to delegate any of these responsibilities to individual customers because they have an ability to self-generate with a CHP system.

Consequently, the Commission should keep these realities in mind when reviewing any information responsive to proposed §§69.3202(a)(3) and (4). It is perfectly conceivable, in Duquesne Light's view, that there could be little if no reported system reliability benefits or transmission or distribution related savings (including avoided costs) as a result of the existence of interconnected customer owned CHP in its service territory. Similarly, because CHP in

discussion stages or simply scheduled may not come online as anticipated, the Company strongly suggests that neither Technical Utility Services, nor the Commission itself, solely rely on information reported as requested in proposed §69.3202(b) as an accurate depiction of the amount of CHP projected in the state going forward.

C. Additional Recommendations to the Proposed Requirements in Section §69.3202

Implicit in both the Order and the *Proposed Policy Statement* is a tacit suggestion that current EDC interconnection policies are somehow unworkable, complex and not processed in a timely manner. While the PUC explains that the ACEEE rankings and observations from the 2015 Scorecard helped guide the requirements in the *Proposed Policy Statement*, upon review of the cited report, Duquesne Light is struggling to come up with the same conclusions related to interconnection standards.

While noting that the 2015 ACEEE Scorecard awarded the Commonwealth zero points in the area of interconnection standards, in order to get the 0.5 point available, ACEEE stated that interconnection standards need to do 4 things:

- Be adopted by utilities serving the majority of the state's customers;
- Cover all forms of CHP, regardless of fuel;
- Have multiple tiers of interconnection and some kind of fast-track option for smaller systems; and
- Apply to systems up to 10 MW.

ACEEE 2015 Report, p. 75.

Conversely, the terms and conditions articulated by the PUC in the proposed reporting requirements include fees, streamlined procedures, standardized forms, simplified dispute processes and an ability for "larger CHP systems" not eligible for net metering to interconnect. Notably absent, however, are definitions or explanations as to what "streamlined procedures" entails, what the term "standardized" means – (*e.g.* does it contemplate the same form for any

size system in a particular EDC service territory or does it mean standardized among all EDCs), and what is inadequate/unworkable about current dispute processes that needs to be "simplified [and] defined," etc. As a result, the requested information is overly broad, ambiguous and nearly impossible for specific comment or endorsement without further direction or explanation from the PUC. Moreover, if the goal of these suggested interconnection standard metrics is to achieve a higher ACEEE rating, there is no explanation of the nexus between the observations of the ACEEE referenced above and the proposed information requested by the Commission.

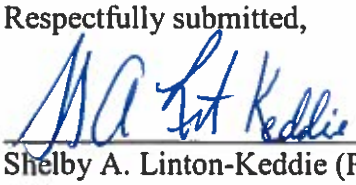
Issues regarding the appropriateness of interconnection standards and requirements as well as standby charges are tariff matters. Any potential creation of distribution subsidies to support CHP involves significant issues including which customers will pay such subsidies and how they will benefit from CHP as well as the potential effects of subsidized CHP on competitive retail markets. As such, they should be addressed as part of distribution base rate proceedings, not modified in an effort to conform to a Policy Statement.

Finally, any suggestion or implication that NGDCs should create rate classes that treats CHP as "preferential" should be thoroughly reviewed under the standards in the Public Utility Code, specifically Section 1304, which prohibits discrimination in rates. *See* 66 Pa. C.S. § 1304. As explained *supra*, there are numerous reasons why CHP may not be viable for a customer. Preferential rates for particular technologies, depending on how they are structured, could be akin to a subsidy and thus discriminatory. The Company strongly advises against allowing the creation of any mechanism that would make otherwise uneconomic decisions regarding CHP economic, thus favoring one form of generation over another and forcing use of a technology when it is not feasible without such treatment.

CONCLUSION

Duquesne Light supports the goal of the Commission to continue its efforts to achieve efficiencies and rate reductions for Pennsylvanians by exploring and encouraging changing technologies, like CHP, that can reduce energy costs while at the same time enhance reliability of an individual customer's internal system. The Company also understands the PUC's desire to "promote energy efficiency, the reliability and security of the electric and natural gas distribution systems, and control the cost that customers pay for electric and natural gas service." *Proposed Policy Statement Order* at 7. However, when effectuating these goals, the Commission should remain generation agnostic, recognize that CHP development may be slow due to a host of factors independent of EDC (or other utility) policies and refrain from facilitating a technology that may not prove to be economically viable.

Respectfully submitted,



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