



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF SMALL BUSINESS ADVOCATE

December 5, 2012

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Petition of Duquesne Light Company for Approval of a Default Service
Program and Procurement Plan for the Period June 1, 2013 through May 31,
2015
Docket No. P-2012-2301664**

Dear Secretary Chiavetta:

Enclosed for filing are the Exceptions, on behalf of the Office of Small Business Advocate, in the above-docketed proceeding. As evidenced by the enclosed certificate of service, two copies have been served on all active parties in this case.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sharon E. Webb'.

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID #73995

Enclosures

cc: Parties of Record

Brian Kalcic

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for :
Approval of Default Service Plan for the Period : Docket No. P-2012-2301664
June 1, 2013 Through May 31, 2015 :

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the Exceptions, on behalf of the Office of Small Business Advocate, by e-filing, e-mail and/or first-class mail (unless otherwise noted) upon the persons addressed below:

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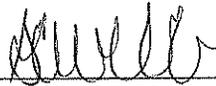
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Date: December 5, 2012



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of Duquesne Light Company for :
Approval of a Default Service Program : Docket No. P-2012-2301664
and Procurement Plan for the Period :
June 1, 2013 through May 31, 2015 :**

**EXCEPTIONS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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Dated: December 5, 2012

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I. INTRODUCTION AND PROCEDURAL HISTORY

On April 27, 2012, the Duquesne Light Company (“Duquesne” or “Company”) initiated the above-captioned proceeding by filing with the Pennsylvania Public Utility Commission (“Commission”) a Petition for Approval of a Default Service Plan for the period of June 1, 2013, through May 31, 2015 (“Petition” or “POLR VT”) pursuant to Section 2807(e) of the Public Utility Code, 66 Pa. C.S. §2807(e), and 52 Pa. Code §5.41, and the Commissions Retail Market Orders at Docket No. I-2011-2237952.

On May 17, 2012, the OSBA filed a Notice of Intervention, a Public Statement, an Answer to the Petition, and a Notice of Appearance.

An Answer and Notice of Intervention were also filed by the Office of Consumer Advocate (“OCA”) on May 14, 2012. A Notice of Appearance was filed by the Commission’s Bureau of Investigation and Enforcement (“I&E”) on May 14, 2012.

Interventions were filed by: Dominion Retail, d/b/a Dominion Energy Solutions and Interstate Gas Supply d/b/a IGS Energy (“IGS”); Noble Americas Energy Solutions, LLC (“Noble”); Citizen Power, Inc. (“Citizens”); FirstEnergy Solutions (“FES”); Retail Energy Supply Association (“RESA”); Constellation New Energy, Inc., with Exelon Generation Corp., LLC (“Constellation and ExGen”); Duquesne Industrial Intervenors (“DIIP”); Coalition for Affordable Utility Services and Energy Efficiency of Pennsylvania (“CAUSE-PA”); NextEra Energy Services Pennsylvania and NextEra Power Marketing (“NextEra”).

A Prehearing Conference took place on June 8, 2012, before Administrative Law Judge (“ALJ”) Katrina L. Dunderdale, where the parties agreed to a procedural schedule and certain discovery modifications.

The OSBA submitted the Direct Testimony, Rebuttal Testimony and Surrebuttal Testimony of its witness, Brian Kalcic.

Evidentiary hearings were held in Pittsburgh, with many Harrisburg Parties appearing telephonically from the Keystone Building, on September 13, 2012. No cross examination was conducted after the parties reviewed the Rejoinder Testimony filed by the Company. The testimony and exhibits of the parties were entered into the record at the evidentiary hearing.

The OSBA submitted its Main Brief on October 5, 2012. The OSBA submitted a Reply Brief on October 22, 2012.

The Recommended Decision (“RD”) of ALJ Dunderdale was issued on November 9, 2012. The OSBA files this Exception to the RD in accordance with the Secretarial Letter.

II. EXCEPTIONS

OSBA Exception No. 1

The ALJ erred in recommending that Duquesne's Standard Offer Referral Program should be available to Small C&I customers. (RD at 168.)

The ALJ concluded that the level of Small C&I customers shopping in Duquesne's service territory is only slightly higher than the percentage of residential shopping customers. That conclusion forms the sole basis for the ALJ's recommendation that Small C&I customers be eligible for Duquesne's Standard Offer Program.

a. The ALJ's recommendation ignores Duquesne's shopping levels and the Company's proposed changes in its Small C&I procurement plan that are designed to promote shopping.

As noted in the OSBA's Main Brief, the Commission has specifically touted Duquesne's default service programs "as having helped create one of the most competitive shopping environments in the Commonwealth, and the country while, at the same time, providing default service at rates and terms that meet the requirements of the Public Utility Code."¹ RESA witness Mr. Kallaher even acknowledged the high level of competitive activity in Duquesne's service territory.²

Duquesne correctly proposed to limit its RME programs to residential customers. In support of its position, Duquesne offered several important reasons why Small C&I customers should be excluded from participating in the Company's Retail Market Enhancement ("RME") programs at this time, including:

¹ OSBA Main Brief at 13, *citing* Petition at 1 *citing* Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. §2807(e)(2), p. 33, fn 18, Docket No. L-00040169, May 10, 2007 ("[t]he experience of Duquesne shows that retail markets can work. Duquesne's territory has the highest of customer choice in Pennsylvania").

² OSBA Main Brief at 13, *citing* RESA Statement No. 2 at 7.

- (i) The relative costs and benefits of retail market initiatives have yet to be proven;
- (ii) Duquesne is already among the top six electric service areas in the United States in terms of percentage of load shopping with a competitive supplier;
- (iii) Customer shopping among Small C&I customers is increasing, reaching 42% as of August 2012, up from 34% in March 2012; and
- (iv) Duquesne is proposing to make its Small C&I procurement plan more market responsive under DSP VI than under DSP V, which is intended to further promote shopping among Small C&I customers.³

Given the overall level of shopping in Duquesne's service territory and the changes that the Company is proposing to further promote shopping in DSP VI, the Commission should carefully weigh the results of the Company's proposed residential RME programs before considering an expansion of the programs to Small C&I customers.

b. The record is devoid of any evidence as to how Duquesne's proposed residential RME programs should be modified to "fit" Small C&I customers.

Under RESA's proposal, Duquesne's RME programs would be expanded to include Small C&I customers. However, RESA provides no specifics as to how the Company's proposed RME programs should be modified to account for differences between residential and Small C&I customers. Instead, RESA suggests that the details of the RME programs, as applied to Small C&I customers, should be determined later in a stakeholder process.⁴

³ Duquesne Light St. No. 3-RJ, pp. 21-23.

⁴ RESA Statement No. 2, pp. 13-14.

Since the Small C&I customer group is not a clone of Duquesne's residential class, the RME program parameters that are ultimately established for Duquesne's residential customers in this proceeding will not be appropriate for Small C&I customers. Even RESA concedes that the details of the Small C&I program "would likely differ in some material respects from the residential program."⁵ In essence, the expansion of Duquesne's RME programs to include Small C&I customers would necessitate that the Commission order stakeholders to convene to develop RME programs for small business customers over a limited period of time, starting from a blank piece of paper. Given the parties' differing litigation positions with respect to the design of Duquesne's residential RME programs, it is unlikely that the parties would reach agreement on the details necessary to implement a successful Small C&I RME program(s) in a stakeholder process.⁶

In short, those parties wishing to include Small C&I customers in the Company's RME programs should have sponsored detailed Small C&I-targeted RME programs for the Commission's consideration in this proceeding. No party did so. As a result, the Commission should not include Small C&I customers in Duquesne's RME programs at this time.

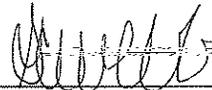
⁵ RESA Statement No. 2, p. 14.

⁶ OSBA Statement No. 2, p. 7.

III. CONCLUSION

For the reasons set forth herein, the OSBA respectfully requests that the Commission grant the OSBA's Exception, and approve the Company's proposed Opt-In and Standard Offer Programs which limit participation to residential customers.

Respectfully submitted,



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