



17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601  
717-731-1970 Main  
717-731-1985 Main Fax  
www.postschell.com

---

Anthony D. Kanagy

akanagy@postschell.com  
717-612-6034 Direct  
717-731-1985 Direct Fax  
File #: 150740

December 5, 2012

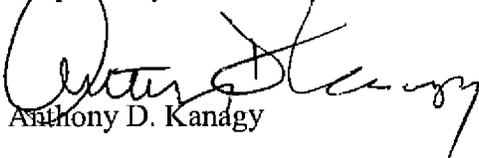
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Duquesne Light Company please find Exceptions to the Recommended Decision issued on November 15, 2012 in the above-referenced proceeding. Copies will be provided as indicated on the certificate of service.

Respectfully Submitted,



Anthony D. Kanagy

ADK/skr

Enclosures

cc: Honorable Katrina L. Dunderdale  
Certificate of Service  
Edward Berzonsky

## CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

### VIA E-MAIL AND FIRST CLASS MAIL

Charles Daniel Shields, Senior Prosecutor  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
PO Box 3265  
Harrisburg, PA 17105-3265  
E-mail: [chshields@pa.gov](mailto:chshields@pa.gov)  
Phone: 717-783-6151

Sharon E. Webb, Esquire  
Assistant Small Business Advocate  
Office of Small Business Advocate  
300 North Second Street, Suite 1102  
Harrisburg, PA 17101  
E-mail: [swebb@pa.gov](mailto:swebb@pa.gov)  
Phone: 717-783-2525

Jennedy S. Johnson, Esquire  
David T. Evrard, Esquire  
Assistant Consumer Advocates  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923  
E-mail: [jjohnson@paoca.org](mailto:jjohnson@paoca.org)  
[DEvrard@paoca.org](mailto:DEvrard@paoca.org)  
Phone: 717-783-5048

Todd S. Stewart, Esquire  
William E. Lehman, Esquire  
Hawke, McKeon & Sniscak LLP  
100 N. 10th Street  
PO Box 1778  
Harrisburg, PA 17101  
E-mail: [tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)  
[welehman@hmslegal.com](mailto:welehman@hmslegal.com)  
Phone: 717-236-1300

Vincent A. Parisi  
IGS Energy  
6100 Emerald Parkway  
Dublin, OH 43016  
E-mail: [vparisi@IGSEnergy.com](mailto:vparisi@IGSEnergy.com)  
Phone: 614-659-5055

Gary A. Jeffries, Esquire  
Assistant General Counsel  
Dominion Retail, Inc.  
501 Martindale Street, Suite 400  
Pittsburgh, PA 15212-5817  
E-mail: [Gary.A.Jeffries@dom.com](mailto:Gary.A.Jeffries@dom.com)  
Phone: 412-237-4729

Charles E. Thomas, III, Esquire  
Thomas T. Niesen, Esquire  
Thomas, Long, Niesen & Kennard  
212 Locust Street, Suite 500  
PO Box 9500  
Harrisburg, PA 17108-9500  
E-mail: [cct3@thomaslonglaw.com](mailto:cct3@thomaslonglaw.com)  
[tniesen@thomaslonglaw.com](mailto:tniesen@thomaslonglaw.com)  
Phone: 717-255-7600

Brian J. Knipe, Esquire  
Buchanan Ingersoll & Rooney PC  
17 North 2nd Street, 15<sup>th</sup> Floor  
Harrisburg, PA 17101  
E-mail: [brian.knipe@bipc.com](mailto:brian.knipe@bipc.com)  
Phone: 717-237-4820

Amy M. Klodowski, Esquire  
FirstEnergy Solutions Corp.  
800 Cabin Hill Drive  
Greensburg, PA 15601  
E-mail: [aklodow@firstenergycorp.com](mailto:aklodow@firstenergycorp.com)  
Phone: 724-838-6765

Brian R. Greene, Esquire  
Greene Hurlocker, PLC  
707 East Main Street  
Suite 1025  
Richmond, VA 23219  
E-mail: [bgreene@greenehurlocker.com](mailto:bgreene@greenehurlocker.com)  
Phone: 804-672-4542

Victor P. Stabile, Esquire  
Dilworth Paxton LLP  
112 Market Street, 8th Floor  
Harrisburg, PA 17101  
E-mail: [vstabile@dilworthlaw.com](mailto:vstabile@dilworthlaw.com)  
Phone: 717-236-4812, Ext. 101

Patrick M. Cicero, Esquire  
Harry S. Geller, Esquire  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
E-mail: [pciceropulp@palegalaid.net](mailto:pciceropulp@palegalaid.net)  
[hgellerpulp@palegalaid.net](mailto:hgellerpulp@palegalaid.net)  
Phone: 717-236-9486, Ext. 202

Stephen L. Huntoon, Esquire  
NextEra Energy Resources, LLC  
801 Pennsylvania Avenue, N.W., Suite 220  
Washington, DC 20001  
E-mail: [shuntoon@nexteraenergy.com](mailto:shuntoon@nexteraenergy.com)  
Phone: 202-349-3348

Pamela C. Polacek, Esquire  
Teresa K. Schmittberger, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
PO Box 1166  
Harrisburg, PA 17108-1166  
E-mail: [ppolacek@mwn.com](mailto:ppolacek@mwn.com)  
[tschmittberger@mwn.com](mailto:tschmittberger@mwn.com)  
Phone: 717-232-8000

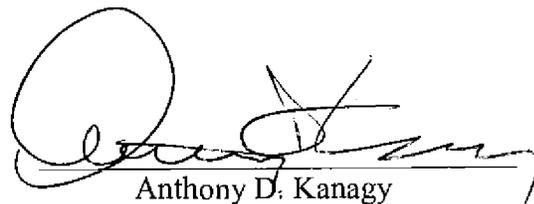
Theodore S. Robinson, Esquire  
Citizen Power Inc.  
2121 Murray Avenue  
Pittsburgh, PA 15217  
E-mail: [robinson@citizenpower.com](mailto:robinson@citizenpower.com)  
Phone: 412-421-7029

Divesh Gupta, Esquire  
Assistant General Counsel  
Constellation Energy Group, Inc.  
100 Constellation Way, Suite 500C  
Baltimore, MD 21202  
E-mail: [divesh.gupta@constellation.com](mailto:divesh.gupta@constellation.com)  
Phone: 410-470-3158

Stephen Bennett  
Director, State Government Affairs - East  
Exelon Generation Company, LLC  
300 Exelon Way  
Kennett Square, PA 19348  
E-mail: [stephen.bennett@exeloncorp.com](mailto:stephen.bennett@exeloncorp.com)  
Phone: 610-765-6594

Brian Kalcic  
Excel Consulting  
225 S. Meramec Avenue, Suite 720-T  
St. Louis, MO 63105  
E-mail: [excel.consulting@sbcglobal.net](mailto:excel.consulting@sbcglobal.net)  
Phone: 314-725-2511

Date: December 5, 2012



Anthony D. Kanagy

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**EXCEPTIONS OF DUQUESNE LIGHT COMPANY  
TO THE RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE**

Kryisia Kubiak (ID # 90619)  
Duquesne Light Company  
411 Seventh Avenue  
Pittsburgh, PA 15219  
Phone: (412) 393-6505  
Fax: (412) 393-5897  
E-mail:KKubiak@duqlight.com

Attorney for Duquesne Light Company

Michael W. Gang (ID # 25670)  
Anthony D. Kanagy (ID # 85522)  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
Phone: (717) 731-1970  
Fax: (717) 731-1985  
E-mail:mgang@postschell.com  
E-mail:akanagy@postschell.com

Date: December 5, 2012

**TABLE OF CONTENTS**

	<u>Page</u>
I. INTRODUCTION AND SUMMARY OF EXCEPTIONS AND REQUESTS FOR CLARIFICATION.....	1
II. EXCEPTIONS .....	4
A. DUQUESNE LIGHT EXCEPTS TO THE ALJ’S REJECTION OF THE COMPANY’S PROPOSED CHOICE REFERRAL TEAM (RD, P. 142; DUQUESNE LIGHT MB, PP. 66-67; DUQUESNE LIGHT REPLY BRIEF, PP. 42-43). .....	4
B. DUQUESNE LIGHT EXCEPTS TO ALJ’S RECOMMENDATION THAT THE COMPANY SEND A THIRD NOTICE TO CUSTOMERS AT THE END OF PARTICIPATION IN RETAIL MARKET ENHANCEMENT PROGRAMS (RD, P. 105; DUQUESNE LIGHT MB, PP. 54-55; DUQUESNE LIGHT RB, PP. 29-31).....	5
C. DUQUESNE LIGHT REQUESTS THAT THE COMMISSION CLARIFY AND AMEND THE ALJ’S RECOMMENDATION TO SPECIFICALLY APPROVE THE COMPANY’S AMENDED COST RECOVERY STRUCTURES FOR RME PROGRAMS (RD, PP. 155-156; DUQUESNE LIGHT MB, PP. 68-71; DUQUESNE LIGHT RB, PP. 44-45).....	6
D. DUQUESNE LIGHT REQUESTS THAT THE COMMISSION CLARIFY AND AMEND THE ALJ’S RECOMMENDATION WITH REGARD TO PAYMENTS TO EGSS FOR BUDGET BILLING CUSTOMERS. (RD, PP. 216-217; DUQUESNE LIGHT MB, PP. 88-89; DUQUESNE LIGHT RB, PP. 54-56). .....	7
III. CONCLUSION.....	9

**I. INTRODUCTION AND SUMMARY OF EXCEPTIONS AND REQUESTS FOR CLARIFICATION**

On November 9, 2012, ALJ Katrina L. Dunderdale (the “ALJ”) issued a comprehensive Recommended Decision (“RD”) addressing the issues raised by parties with regard to Duquesne Light Company’s (“Duquesne Light” or the “Company”) proposed Default Service Program and Procurement Plan (“DSP VI”).

The ALJ has recommended that Duquesne Light’s plan generally be approved, with certain modifications that Duquesne Light either accepts or comments on in these Exceptions.

The ALJ recognizes that the Company carefully balanced the goals of developing a default service plan that produces default service rates that are both reasonably stable and reflective of market prices and continues to encourage and support the development a competitive retail market.

The cornerstone of the Company’s plan for residential customers is one-year fixed-price full requirements products, one-year fixed rates and market enhancement programs that will provide customers that are reluctant to shop with clear signals concerning potential savings from shopping. As the ALJ observed from her own experience, many customers do not want to repeatedly check their supplier charge against the price to compare. RD, p. 29. The ALJ concluded that Duquesne Light’s customers are more likely to shop if they can see guaranteed savings over an extended period of time. RD, p. 73.

For these reasons, the ALJ recommended approval of Duquesne Light’s one-year residential products, one-year fixed rates, one-year reconciliation and the Company’s one-year Retail Opt In Program. Under the proposed Retail Opt In Program, customers will receive a fixed rate on enrolling in June 2013 that will be guaranteed to be below the cost to compare until

June 1, 2014, if the Company's Residential Procurement Plan is accepted as recommended by the ALJ.

OCA and EGSs serving residential customers in the Company's service territory support the structure of the Company's balanced plan. Even RESA's witness noted that EGSs are comfortable providing a twelve-month fixed price because it can be hedged. RESA St. 2-R, p. 8. Accordingly, guaranteed savings can be provided for a twelve-month period if the PTC does not change.

In other recent cases, the Commission adopted different frequencies of default service rate changes and a shorter Retail Opt In Program term than is proposed by the Company. The default service procurements under Duquesne Light's proposal will be as market responsive or stable as in the other cases, because the mix of product term lengths is fairly similar across the cases.<sup>1</sup> The Company's one year rate changes for residential customers are justified by circumstances in its service territory and the success of shopping. For example, Duquesne Light's residential customers are accustomed to longer periods of time between default service rate changes, as they are currently offered a rate that is fixed for a 29-month period, and before that the rate was fixed for a 36-month period. Under this approach, retail competition has expanded to the point where shopping is among the highest in the Commonwealth and the nation. Duquesne Light believes that its Residential Procurement Plan and proposed Retail Opt In Program are the best approach for enhancing competition in its service territory and for default service customers at this time.

---

<sup>1</sup> For example, inclusion of both one-year and two-year fixed-price full requirements products has been approved by the Commission for both the FE Companies and PECO. Similarly, Duquesne Light's proposal includes one-year products, as well as some solicitations in which consecutive one-year products are procured simultaneously thereby providing similar hedging benefits as two-year products.

Dramatic change is not required to Duquesne Light's proposed residential program. Nevertheless, it is to be noted that moving from a 29-month fixed rate under DSP V to one-year fixed rates under DSP VI for residential customers is significant, and would be a reasonable transition to further changes that may ultimately be adopted in the end state model.

Likewise, Duquesne Light's proposed procurement plans for its non-residential customers are generally more market-responsive than the current procurement plans and reflect reasonable transitions to further changes that may ultimately be adopted in the end state model. Under the Company's current procurement plan for Small Commercial and Industrial ("Small C&I") customers, rates are reset annually. Under the proposed Small C&I procurement plan, rates will be reset every six months. For Medium Commercial and Industrial ("Medium C&I") customers, the Company is proposing to move from 12-month, laddered supply contracts to 6-month contracts that are not laddered and procured no more than 60 days before delivery.

For these reasons, the ALJ correctly concluded that the Company's Residential, Small C&I and Medium C&I procurement plans balance interests of default service customers and competition in the Company's service territory. The ALJ's recommendation should be affirmed.

The Company also has tried to reach consensus in this proceeding on the issue of cost recovery for RME programs. As noted in these Exceptions, the Company responded to EGS concerns that recovery of all costs from EGSs through the Purchase of Receivable ("POR") mechanism could be unfair to established EGSs and those EGSs not participating in the RME program. The Company therefore supported Dominion/IGS' approach of a customer acquisition fee as the primary vehicle for recovery of the Standard Offer ("SO Program") costs. The Company here requests that the Commission confirm that structure. The Company also requests the Commission approve the use of a "Choice Referral Team" for the SO Program and direct that

any notices to customers at the end of RME program terms be provided solely by EGSs and not the Company.

In addition, as noted below, the Company is requesting a clarification with regard to the ALJ's recommendation that the Company pay EGSs that serve budget bill customers the actual monthly billed charges (for kWh actually used) instead of the budget bill amount paid by the customer. The Company is currently in the process of implementing a new Customer Information System ("CIS") and is unable to implement the Information Technology ("IT") changes necessary to revise its existing billing procedures before January 2014. Therefore the Company respectfully requests that the Commission allow Duquesne Light to continue paying EGSs the budget bill amount until January 2014, or as soon thereafter as Duquesne Light is able to implement the necessary IT changes.

## **II. EXCEPTIONS**

### **A. DUQUESNE LIGHT EXCEPTS TO THE ALJ'S REJECTION OF THE COMPANY'S PROPOSED CHOICE REFERRAL TEAM (RD, P. 142; DUQUESNE LIGHT MB, PP. 66-67; DUQUESNE LIGHT REPLY BRIEF, PP. 42-43).**

The Company proposed to create and train a dedicated Choice Referral Team to process calls from customers expressing interest in the SO Program. The Company explained that the Choice Referral Team would permit specialized training and expertise as to the SO Program terms, rules and process for enrollment. The Company also noted that the Choice Referral Team would facilitate tracking of costs of the SO Program. Duquesne Light St. No. 5, p. 11. OCA expressed concerns that the Choice Referral Team would increase costs and require a transfer to a second Consumer Service Representative ("CSR"). OCA St. No. 2, p. 18. The ALJ accepted these concerns and recommended rejection of the Choice Referral Team. RD, p. 142.

The Company respectfully disagrees with the ALJ's recommendation. Contrary to OCA's unsupported contention, the Choice Referral Team should reduce costs by limiting the number of CSRs that must be trained. It will also provide more knowledgeable and focused CSRs that are more capable of answering questions specific to the SO Program. Finally, the tracking of costs associated with the SO Program will be facilitated by providing a clear distinction of CSR activities applicable to the SO Program and the many other CSR activities. Duquesne Light St. No. 5-R, pp. 15-16.

Duquesne Light also notes that the use of a Choice Referral Team would facilitate transfer of this service to a statewide service entity for all companies if the Commission ultimately adopts such an approach.

Accordingly, the Commission should not accept the ALJ's recommended rejection of the Choice Referral Team.

**B. DUQUESNE LIGHT EXCEPTS TO ALJ'S RECOMMENDATION THAT THE COMPANY SEND A THIRD NOTICE TO CUSTOMERS AT THE END OF PARTICIPATION IN RETAIL MARKET ENHANCEMENT PROGRAMS (RD, P. 105; DUQUESNE LIGHT MB, PP. 54-55; DUQUESNE LIGHT RB, PP. 29-31).**

The ALJ accepted OCA's and CAUSE PA's contention that a third notice should be sent to customers electing to participate in Retail Market Enhancement ("RME") programs and that this notice should come from the Company 90 days prior to the end of the program. RD, p. 105.

The Company does not believe that a notice from the Company is necessary since the Commission can prescribe the content of EGS notices. Requiring the Company to send notices would increase costs incurred by the Company that would have to be recovered from EGSs. Customers will have voluntarily elected to participate in the programs, and there is no reason to require that the Company alert customers that the customer can return to default service.

For these reasons, if a third notice is required, it should be provided directly by the participating EGSs.

**C. DUQUESNE LIGHT REQUESTS THAT THE COMMISSION CLARIFY AND AMEND THE ALJ'S RECOMMENDATION TO SPECIFICALLY APPROVE THE COMPANY'S AMENDED COST RECOVERY STRUCTURES FOR RME PROGRAMS (RD, PP. 155-156; DUQUESNE LIGHT MB, PP. 68-71; DUQUESNE LIGHT RB, PP. 44-45).**

In its filing, the Company proposed to recover costs of the Retail Opt In Program through direct charges to EGSs that participate in the program. If there is no participation by EGSs, there would be no mailings and limited costs, which the Company proposed to recover with increased discounts under its Purchase of Receivable ("POR") program or with a back-up fee allocated evenly to all EGSs serving the applicable customer class for any unrecovered costs. The Company also proposed to recover SO Program costs under the POR discount. These approaches followed the recommendations contained in the RMI. Duquesne Light St. No. 4, p. 22.

During the proceeding, EGSs expressed concerns about recovery of RME costs, and particularly SO Program costs, through the POR discount, arguing that program costs should not be allocated to EGSs according to market share since non-participating EGSs would be required to pay costs unfairly. Dominion/IGS proposed a per customer acquisition fee to recover SO Program costs. Dominion/IGS St. No. 1, p. 8. In response, the Company, recognizing the merit of such approach, responded that it would accept a \$20 per customer acquisition fee for the SO Program as the primary cost recovery mechanism, with a back-up fee allocated evenly to all EGSs serving the applicable customer class for any unrecovered costs. Duquesne Light St. No. 3-RJ, p. 32.

The ALJ recommended that the Commission assign all RME costs to EGSs. RD, p. 155. However, the ALJ did not recommend a structure for doing so. The Company believes that

substantial progress has been made in identifying a structure for recovery of RME costs in this proceeding. Therefore, Duquesne Light requests that the Commission clarify the RD and conclude that the Company's cost recovery proposals as amended in the proceeding and described above will be the structure to be used to recover RME costs. Further details within such structure can be resolved in a collaborative among interested parties.

**D. DUQUESNE LIGHT REQUESTS THAT THE COMMISSION CLARIFY AND AMEND THE ALJ'S RECOMMENDATION WITH REGARD TO PAYMENTS TO EGSS FOR BUDGET BILLING CUSTOMERS. (RD, PP. 216-217; DUQUESNE LIGHT MB, PP. 88-89; DUQUESNE LIGHT RB, PP. 54-56).**

In this proceeding, Constellation NewEnergy, Inc. and Exelon Generation Company (collectively "Constellation") argued that Duquesne Light should pay EGSSs actual monthly billed amounts (for kWh actually used), for EGSS' customers on the budget billing program, as opposed to paying EGSSs budget billing charges. Joint Suppliers MB, p. 18. Duquesne Light disagreed with this position and argued that the Company should only be required to pay EGSSs the budget bill amount for EGSS customers that are on the budget billing program. Duquesne Light RB, p. 55.

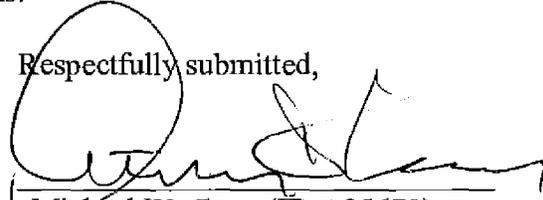
The ALJ recommended that Duquesne Light remit payment for actual monthly billed kWh (as opposed to the budget bill amounts) to EGSSs whether or not the EGSS's customer is on a budget bill program and that Duquesne Light should include this billing change with the initial implementation of its new CIS system. RD, p. 217. Duquesne Light is not excepting to the part of the ALJ's decision which recommends that the Company pay EGSSs actual monthly billed kWh amounts. However, Duquesne Light is respectfully requesting that the Commission clarify and/or modify the ALJ's recommendation that the Company roll this revision into the implementation of its new CIS system. RD, pp. 216-217. The functionalities included in the initial roll-out of the new CIS system are already under design and development and do not

include the ability to send EGSs payments for actual monthly billed kWh for customers that receive budget bills. This functionality cannot be implemented until a new design and development phase is implemented. Therefore, it will take several months after the CIS system is operational to implement this new functionality. See e.g., Duquesne Light St. No. 6-RJ, p. 2. Duquesne Light cannot reasonably implement this new functionality before January 2014. Therefore, Duquesne Light requests that the Commission clarify and/or modify the RD to allow Duquesne Light to continue paying EGSs budget bill amounts until January 2014, or as soon thereafter as Duquesne Light is able to implement the necessary IT changes.

**III. CONCLUSION**

ALJ Dunderdale's Recommended Decision recognizes that Duquesne Light's DSP VI plan strikes a balance between the interests of enhancing competition and the interests of default service customers. The circumstances of competition and shopping in the Company's service area also support the Company's DSP VI plan. The Recommended Decision should be adopted by the Commission as modified by these Exceptions.

Respectfully submitted,



Michael W. Gang (ID # 25670)

Anthony D. Kanagy (ID # 85522)

Post & Schell, P.C.

17 North Second Street, 12<sup>th</sup> Floor

Harrisburg, PA 17101-1601

Phone: (717) 731-1970

Fax: (717) 731-1985

E-mail:mgang@postschell.com

E-mail:akanagy@postschell.com

Krycia Kubiak (ID # 90619)  
Duquesne Light Company  
411 Seventh Avenue  
Pittsburgh, PA 15219  
Phone: (412) 393-6505  
Fax: (412) 393-5897  
E-mail:KKubiak@duqlight.com

Attorney for Duquesne Light Company

Date: December 5, 2012