

Brian R. Greene
GreeneHurlocker, PLC
707 E. Main Street, Suite 1025
Richmond, VA 23219-2812
804-672-4542 (Direct)
BGreene@GreeneHurlocker.com

April 10, 2013

BY FED EX AND EMAIL

Rosemary Ciavetta, 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 a Default Service Plan for the Period June 1, 2013 through May 31,
2015 - Docket No.P-2012-2301664

Dear Ms Ciavetta:

Enclosed for filing in the above referenced matter please find the Retail Energy Supply Association's Comments. Copies have been provided pursuant the attached Certificate of Service.

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

Sincerely,



Brian R. Greene

BRG/wcd
Enclosures

c: Service List (see Certificate of Service)

Vincent A. Parisi, Esquire
IGS Energy
5020 Bradenton Avenue
Dublin, OH 43017
vparisi@IGSEnergy.com

Gary A. Jeffries, Esquire
Assistant General Counsel
Dominion Retail, Inc.
501 Martindale Street, Suite 400
Pittsburgh, PA 15212-5817
Gary.A.Jeffries@dom.com

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
cet3@thomaslonglaw.com
tniesen@thomaslonglaw.com
717.255.7600
Counsel for Noble Americas Energy Solutions LLC

Brian J. Knipe, Esquire
Buchanan Ingersoll & Rooney PC
17 North 2nd Street, 15th Floor
Harrisburg, PA 17101
brian.knipe@bipc.com
717.234.4820
Counsel for FirstEnergy Solutions, Corp.

Amy M. Klodowski, Esquire
FirstEnergy Solutions Corp.
800 Cabin Hill Drive
Greensburg, PA 15601
aklodow@firstenergycorp.com
724.838.6765
Counsel for FirstEnergy Solutions Corp.

Patrick M. Cicero, Esquire
Harry S. Geller, Esquire
Pennsylvania Utility Law Project
118 Locust Street

Harrisburg, PA 17101
pciceropulp@palegalaid.net
717.236.9486, Ext. 202
hgellerpulp@palegalaid.net
pulp@palegalaid.net
Counsel for CAUSE-PA

Stephen L. Huntoon, Esquire
NextEra Energy Resources, LLC
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20001
shuntoon@nexteraenergy.com
202.349.3348
Counsel for NextEra Energy Services Pennsylvania, LLC and NextEra Energy Power Marketing, LLC

Pamela C. Polacek, Esquire
Teresa K. Schmittberger, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
ppolacek@mwn.com
717.237.5358 (direct)
tschmittberger@mwn.com
717.232.8000
Counsel for Duquesne Industrial Intervenors

Theodore S. Robinson, Esquire
Staff Attorney
Citizen Power Inc.
2121 Murray Avenue
Pittsburgh, PA 15217
robinson@citizenpower.com
412.421.7029

Divesh Gupta, Esquire
Assistant General Counsel
Constellation Energy Group, Inc.
100 Constellation Way, Suite 500C
Baltimore, MD 21202
divesh.gupta@constellation.com
410.470.3158
Counsel for Constellation NewEnergy, Inc. and Exelon Generation Company, LLC

Stephen Bennett, Director,
State Government Affairs - East
Exelon Generation Company, LLC
300 Exelon Way
Kennett Square, PA 19348
stephen.bennett@exeloncorp.com
610.765.6594



Brian R. Greene

Dated: April 10, 2013

**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 :
:

**COMMENTS OF THE
RETAIL ENERGY SUPPLY ASSOCIATION**

Victor P. Stabile
PA Attorney ID No. 37449
Dilworth Paxson LLP
112 Market Street, 8th Floor
Harrisburg, PA 17101
Tel: (717) 236-4812 Ext. 101
Fax: (717) 236-7811
VStabile@DilworthLaw.com

Brian R. Greene
GreeneHurlocker, PLC
707 East Main Street
Suite 1025
Richmond, VA 23219
Tel: (804) 672-4542
Fax: (804) 672-4540
BGreene@GreeneHurlocker.com
(Admitted Pro Hac Vice)

Date: April 10, 2013

Attorneys for Retail Energy Supply Association

TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. REVISED DS PLAN..... 1

III. REVISED RME PLAN..... 1

A. Revised ROI Program 1

B. Revised Standard Offer Program..... 2

**1. Duquesne’s revised SO Program is fundamentally different from the
program that Duquesne initially proposed and litigated. 3**

2. Duquesne’s revised SO Program should be rejected..... 4

**3. Duquesne’s initial proposal regarding enrollment of customers is
reasonable and should be adopted. 6**

IV. RESA’S ALTERNATIVE RECOMMENDATION 7

V. CONCLUSION 8

I. INTRODUCTION

The Retail Energy Supply Association (“RESA”),¹ by counsel, submits these comments in response to Duquesne Light Company’s (“Duquesne’s”) Revised Retail Market Enhancement Program Design and Cost-Recovery Manual (“Revised RME Plan”), dated March 11, 2013, and also Duquesne’s Revised Default Service Plan Compliance Filing (“Revised DS Plan”), dated March 22, 2013.

II. REVISED DS PLAN

Duquesne’s Revised DS Plan includes a procurement schedule that is consistent with the schedule approved by the Commission in the *January 25 Order*. As such, RESA does not object to the procurement plans as depicted in Appendix 1 of the Revised DS Plan. The Revised DS Plan also appears to adequately address issues relating to CAP customer shopping, reconciliations, and the price to compare. RESA offers no comments on the Supply Master Agreement and Data/EGS supply coordination issues, as RESA has not commented on those issues throughout this proceeding. Finally, RESA’s comments with respect to the RME programs are set forth below.

III. REVISED RME PLAN

A. Revised ROI Program

On April 4, 2013, the Commission issued a Final Order on Reconsideration directing Pennsylvania’s electric distribution companies’ (“EDCs”) to immediately postpone the implementation of their Retail Opt-In (“ROI”) Programs and stop all activities relating to the

¹ RESA’s members include: Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

ROI Programs.² As a result, RESA will not comment at this time on Duquesne's proposed ROI program in its Revised RME Plan.

B. Revised Standard Offer Program

The Final Order on Reconsideration did not postpone the August 1, 2013 implementation date of Duquesne's standard offer referral program ("SO Program"). Duquesne, in its Revised RME Plan, proposes an SO Program that is dramatically and fundamentally different from the SO Program that Duquesne presented to the Commission in its initial default service plan. The revised SO Program, as explained below, would likely result in a negative experience for customers, many of whom will be introduced to electricity choice for the first time. Further, the revised SO Program would subject EGSs to a per-customer referral fee that is too expensive given that the revised program would also shift costs to EGSs. Finally, the revised SO Program would be inconsistent with prior Commission guidance for standard offer programs and also with the same programs being proposed, and approved, by other Pennsylvania EDCs.

For these reasons, explained more fully below, RESA opposes Duquesne's revised SO Program. RESA requests that the SO Program be implemented as approved in the Commission's *January 25 Order*, with cost recovery similar to the cost recovery approved by the Commission in its February 14, 2013 Order in the *Petition of PECO Energy Company for Approval of its Default Service Program II*, Case No. P-2012-2283641 ("*PECO Order*"). However, it is important that the SO Program be implemented on time, by August 1, 2013 as directed in the *January 25 Order*. Therefore, in the interest of efficiency, RESA proposes, as a clear second

² *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*, Case No. P-2012-2301664 (Final Order on Reconsideration entered April 4, 2013).

alternative, to allow Duquesne's revised SO Program to become effective as proposed subject to the conditions explained below.

1. Duquesne's revised SO Program is fundamentally different from the program that Duquesne initially proposed and litigated.

Duquesne's revised SO Program is a dramatically and fundamentally different program than the program that has been before the Commission, and addressed by the parties, since the inception of this proceeding. The biggest difference can be seen by comparing the initial and revised Customer Enrollment sections (Article 4) of the Standard Offer Customer Referral Program Rules ("Rules").³ As initially proposed, Duquesne would establish a "choice referral team" to answer specific questions about supplier shopping and to explain the SO product. When customers were interested in enrolling, the "choice referral team" would send the customer's referral information to the applicable EGS, and the EGS would enroll the customer. This process – in which Duquesne collects the necessary information and transmits it to the EGS for enrollment – would apply not only to inquiries received by the "choice referral team" but also to inquiries received via Duquesne's website or by telephone using an interactive voice response("IVR"). Under the initial proposal, Duquesne would transfer the customer to the EGS's call center for enrollment only if the EGS had so directed.⁴ In its testimony, RESA supported the SO Program with a few modifications that did not involve this aspect of customer enrollment proposed by Duquesne.⁵

³ The original Rules were included as Exhibit NSF-3 to Duquesne's Statement No. 3 (Direct Testimony of Neil S. Fisher), dated April 27, 2012. The revised Rules, which have not been litigated and on which the parties have submitted evidence, were attached to Duquesne's Revised RME Plan as Attachment E.

⁴ Duquesne Statement No. 3, Exhibit NSF-3 at Articles 4.2 and 4.3.

⁵ RESA Statement No. 2 at 15.

Duquesne's revised SO Program presents a remarkably different enrollment process. Under the revised SO program, if the caller states that he/she is interested in enrolling in the program or in learning more about it, then Duquesne will simply transfer the call to the applicable EGS.⁶ Once the EGS receives the transfer from Duquesne, it will be up to the EGS to explain the program, collect the customer's information, and submit the enrollment request to Duquesne.⁷

2. Duquesne's revised SO Program should be rejected.

Duquesne's revised enrollment process and proposed cost recovery present significant problems that will hinder the success of the revised SO Program.

First, the revised enrollment process will likely result in a negative experience for customers who are interested in the SO program. It is envisioned that most of the customers who will be interested in participating in this program will be leaving default service supply for the first time. Yet, under Duquesne's revised proposal, a customer will call the Duquesne call center and learn of the program, and then he/she will be transferred to second call center to hear about the same program, provide information, and possibly enroll. Moreover, rather than speak with a customer service representative from his/her utility, the customer will be speaking with a representative from a company he/she has likely never heard of, knows nothing about, and which will request specific information to complete the enrollment. The transfer of the call to a separate call center, to a company not as well-known as Duquesne, and the need for information from the customer, is likely to turn off customers, especially those who are sticking their toes

⁶ Revised RME Plan at Attachment E, Article 4.2. If the customer is already shopping, Duquesne will recommend that the customer contact his/her current supplier before proceeding. *Id.* Also, the revised SP Program does not mention anything about inquiries Duquesne might receive via its website.

⁷ *Id.*

into the shopping waters for the first time, who would otherwise enroll through the SO program as initially proposed by Duquesne.

Second, Duquesne's revised SO Program cost recovery is not reasonable. The revised program would impose on participating EGSs, for the first year of the program, a \$25 fee per referral. At the same time, however, the revised program shifts costs to participating EGSs because, under the revised program, participating EGSs will need to train their own customer service representatives to sell the product to the customer, and then the EGS's representatives – not Duquesne – will take the necessary information to complete the enrollment. The \$25 referral fee, coupled with the shift in costs to EGSs, decreases the appeal of the program to many EGSs who would otherwise participate.

Third, Duquesne presented no evidence at any point in this proceeding to indicate that program costs could be decreased in ways other than simply overhauling the enrollment process and transferring costs to EGSs as proposed in its revised SO Program filing. Other Pennsylvania EDCs have investigated whether certain tasks can be outsourced and would result in cost savings. RESA, in the collaborative that preceded Duquesne's filing, suggested that Duquesne look into this possibility, but RESA's request was apparently denied. Duquesne has thus presented two proposals – one that it contends will cost \$4.2 million to implement and operate for two years, and one that it contends will cost between \$300,000 and \$500,000. Duquesne would have the parties and this Commission believe that there are no other options but the two that have been presented, and that the Commission must choose between them. The reality is that there may very well be other ways to decrease costs, as other EDCs are investigating, but Duquesne seems content to implement a cheaper program that will be hard-pressed to succeed.

Fourth, the revised SO program is not consistent with the Commission's directives for the SO programs generally. In mandating that the EDCs establish these programs, the Commission very clearly stated that, with respect to enrollment, the EDCs should communicate with interested customers and forward the enrollment information to the EGS for EDI processing.⁸ Thus, Duquesne's proposal to simply transfer calls to EGSs is not what the Commission had in mind when it developed its SO program guidelines.

Finally, the Commission's various orders relating to default service plans indicate a clear preference that the terms and conditions of these referral programs be consistent across the various EDC service territories. Duquesne's revised SO Program would treat the Duquesne territory differently from the others, none of which are proposing these substantial program revisions.

For these reasons, the revised SO Program is not reasonable, will not be successful, and is certainly not supported by any evidence presented at the hearing in this matter.

3. Duquesne's initial proposal regarding enrollment of customers is reasonable and should be adopted.

RESA recommends that the Commission require Duquesne to implement the SO Program that was litigated and approved in the *January 25 Order*. That includes the enrollment process initially presented by Duquesne, addressed by the parties in testimony, and explained above. To address concerns relating to cost recovery, RESA recommends that the Commission require Duquesne to follow the same cost recovery mechanism that it required of PECO in the recent *PECO Order*:

As to the [SO Program], we agree with RESA that a fee of the lesser of \$30/customer or actual costs per referred customer is appropriate. Any remaining

⁸ *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Final Order at 21, 32, 104-105 (Ordering ¶ 9) (entered March 2, 2012).

costs should be recovered in either one of two ways – through a non-by-passable surcharge, as proposed by RESA, or shared with 50% from the POR discount and 50% from residential and small commercial default service customers.⁹

Following the PECO model for cost recovery will ensure consistency across the EDCs.

Moreover, as the Commission ruled in the PECO Order, this cost recovery mechanism encourages EGS participation and provides incentives for EDCs to minimize implementation costs.¹⁰

IV. RESA'S ALTERNATIVE RECOMMENDATION

RESA recognizes that Duquesne's customer base is smaller than the other Pennsylvania EDCs, and that 44% of Duquesne's residential customers are already receiving their electricity from EGSs. Also, RESA wants these SO Programs to be implemented on time, as scheduled. Therefore, if the Commission is inclined to adopt Duquesne's revised SO Program proposal, RESA recommends that the Commission, in any such Order, expressly rule that its adoption of the revised program is not to be considered precedent with respect to the SO programs offered by other Pennsylvania EDCs. RESA would also recommend that the stakeholders meet on a periodic basis to discuss the program's progress and to address deficiencies in the program's structure, including its enrollment process. RESA makes these recommendations as a clear second alternative and believes that the programs should be implemented as initially proposed by Duquesne, with an enrollment process that is consistent with Commission guidelines and the SO programs presented by other EDCs.

⁹ *PECO Order* at 13.

¹⁰ *Id.* at 13-14. RESA reiterates this cost recovery structure, and its \$30 per customer fee, is unreasonable if applied to Duquesne's revised SO program.

V. **CONCLUSION**

For the reasons set forth above, RESA respectfully requests that the Commission deny Duquesne's revised SO Program and require Duquesne to implement the program as approved in the *January 25 Order*, with cost recovery consistent with that recently approved in the *PECO Order*. If the Commission is inclined to approve the revised SO Program, RESA recommends that it do so consistent with the suggestions set forth above.

Respectfully submitted,



Brian R. Greene
GreeneHurlocker, PLC
707 East Main Street
Suite 1025
Richmond, VA 23219
Tel: (804) 672-4542
Fax: (804) 672-4540
BGreene@GreeneHurlocker.com
(Admitted Pro Hac Vice)

Victor P. Stabile
PA Attorney ID No. 37449
Dilworth Paxson LLP
112 Market Street, 8th Floor
Harrisburg, PA 17101
Tel: (717) 236-4812 Ext. 101
Fax: (717) 236-7811
VStabile@DilworthLaw.com

Date: April 10, 2013

Attorneys for the Retail Energy Supply
Association