

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 22, 2013

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 please find the Office of Consumer Advocate's Reply Comments in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "David T. Evrard".

David T. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870

Enclosures

cc: Hon. Katrina L. Dunderdale
Edward Berzonsky, Technical Utility Services
Certificate of Service

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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 :

REPLY COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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April 22, 2013

I. INTRODUCTION

On January 25, 2013, the Pennsylvania Public Utility Commission (PUC or Commission) entered its Order in Duquesne Light Company's (Duquesne or Company) 2012 Default Service proceeding. 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 (Order entered January 25, 2013) (January 25th Order). As part of this Order, the Commission approved the implementation of a Retail Opt-In Program and a Standard Offer Referral Program with certain modifications contained in the Commission's Order. The Commission directed Duquesne to engage in a collaborative process with interested parties to develop a revised plan and to develop a proposal regarding the payment of the costs of the programs. Pursuant to this directive, Duquesne conducted a stakeholder meeting on February 25, 2013 and a follow up meeting on March 5, 2013 with the interested parties.

On March 11, 2013, Duquesne filed its Revised Retail Market Enhancement Program Design and Cost Recovery Proposal (Revised RME Filing). The revised Retail Market Enhancement (RME) programs addressed the modifications directed by the Commission's January 25th Order, proposed a method of recovery for the program costs, and proposed terms and conditions to govern the programs.¹ On March 28, 2013, the Commission issued a Secretarial Letter establishing a schedule for parties to submit Comments and Reply Comments on the Revised RME Filing as well as Duquesne's Revised Default Service Plan Compliance

¹ On March 22, 2013, also in response to the Commission's January 25th Order, Duquesne made a "Revised Default Service Plan Compliance Filing." In addition to addressing the RME proposals submitted on March 11, the March 22 filing addressed other changes to the Default Service Plan directed by the January 25th Order. These include changes to procurement plans, the Supplier Master Agreement, CAP customer shopping, reconciliation and price to compare issues and data coordination issues. The OCA offers no Reply Comments with respect to these issues.

Filing.² Comments were to be filed by April 10, 2013 and Reply Comments are due by April 22, 2013. Four parties submitted Comments on April 10 – the Office of Consumer Advocate (OCA), Citizen Power, the Retail Energy Supply Association (RESA) and FirstEnergy Solutions (FES). These Reply Comments respond to the Comments of RESA and FES, specifically the Comments related to the Standard Offer (SO) Referral Program.

II. REPLY COMMENTS

A. Duquesne's Revised Standard Offer Program Proposal Should Be Adopted.

Both RESA and FES object to the revised SO program customer enrollment process proposed by Duquesne in the March 11 Revised RME Filing. That process provides that Duquesne will present the SO Program to non-shopping residential and small commercial and industrial (C&I) customers who call the Company with: (1) a new or mover request, (2) a high bill complaint, or (3) an inquiry about customer choice. If a customer expresses interest in the SO Program, the Company will transfer the customer call to an impartially selected SO supplier. The SO Supplier will explain the terms and conditions of the SO, including the pricing and other terms of service for the initial 12-consecutive-month billing cycle period, how the terms may change after the initial 12-month period, and the date by which the customer must take action at the end of the SO period. If the customer decides to enroll in the program, the SO Supplier will enroll the customer by submitting an EDI switching request to Duquesne.

RESA and FES prefer Duquesne's original proposal in which calls from customers eligible for the SO Program would be directed to a Duquesne "choice referral team"

² Subsequent to Duquesne's filing of the revised programs, the Commission entered a Tentative Order on March 14, 2013 in this docket and in the other electric distribution companies' default service proceedings proposing to suspend the implementation of the Retail Opt-In Program. Petition of PECO Energy Company, et al., Docket Nos. P-2012-2283641, P-2011-2273650, P-2011-2273668, P-2011-2273669, P-2011-2273670, P-2012-2302074, P-2012-230166 (Order entered March 14, 2013). Comments on the Tentative Order were filed on March 25, 2013. On April 4, 2013, after consideration of the comments of parties, the Commission issued its Final Order on Reconsideration in which it directed the postponement of Retail Opt-In Programs in each of the affected dockets.

that would answer customer questions about shopping for electricity, refer customers to offers available at PAPowerSwitch.com, and explain the SO Program. If a customer expressed interest in the SO Program, the choice referral team would send the customer's referral information to the applicable SO Supplier, or, if the SO Supplier authorized it, the customer referral team could transfer the call directly to the Supplier's call center for enrollment. The Supplier would effectuate enrollment by submitting an EDI switching request to Duquesne. As an alternative, RESA and FES would support Duquesne outsourcing the choice referral team function to a third party.

Among the reasons RESA offers for supporting Duquesne's original proposal or the third party alternative is that Duquesne's revised proposal imposes a per customer referral fee (set at \$25 in the first year of the SO Program) that is too high given that the revised proposal will shift costs to SO Suppliers because they will have to train their customer service representatives to sell the SO product to customers and to take the necessary information to complete enrollment. RESA Comments at 5. RESA appears prepared to accept the proposed \$25 customer referral fee if Duquesne or a third party does the work of explaining the SO program to customers and taking the enrollment information.

The OCA takes issue with this reasoning on several grounds. First, in addressing the issue of cost recovery related to the RME programs, the Commission stated, in the January 25th Order that:

Therefore, consistent with our prior determinations with regard to this issue in our *FirstEnergy DSP* and *PECO DSP Orders*, we direct Duquesne to consult with the EGSs and other interested Parties to this proceeding and resubmit a plan or proposal within forty-five days of the date of entry of this Opinion and Order, for Commission review and approval, addressing how participating EGSs and/or customers will pay for the costs of the RME Programs approved in this DSP proceeding.

We believe that the resolution of these issues is particularly important, as they are the cornerstone to the success of these Programs. The *IWP Final Order* suggested programs that would be implemented during this round of DSPs to bolster customer participation in the retail electric market. However, these steps can only jumpstart the market if they are effectively implemented. We urge the EGSs, Duquesne and other Parties to reach an agreement on how to minimize costs and allocate these costs to participating EGSs in order to carry out these Programs in a cost-effective manner and bring more retail customers to the competitive electric generation market.

January 25th Order at 177-178. (Emphasis added)

The OCA submits that Duquesne's revised SO proposal adheres to the Commission's directive to minimize costs. In its Revised RME Filing, Duquesne indicates that adoption of the revised SO Program will lower program costs from an estimated \$2.1 million per year to a total of between \$300,000 and \$500,000 for the two years of the program. Revised RME Filing at 14. In addition, while Duquesne has set the customer referral fee at \$25 for the first year of the program, it proposes to adjust that fee for the second year of the program based on a comparison of the actual costs incurred and the supplier fees collected through June 2014. *Id.* at 16. If indeed program costs are as low as Duquesne estimates, it is certainly possible that the customer referral fee for the second year of the program will be lower than \$25.

A second reason for opposing RESA and FES' call for reverting to the original SO Program design or the third party alternative is that it is inconsistent with positions they have taken earlier in this proceeding and with the position of the Commission. Duquesne originally proposed to delay the start of its SO Program until June 1, 2014 due to significant Information Technology constraints related to the replacement of its existing Customer Information System (CIS) that would not be resolved until that time. RESA and FES argued that there was no need to delay the start of the SO Program because customers are currently being switched to EGS service in Duquesne's service territory without the new CIS system, and therefore the current

system should be able to accommodate switches through the SO Program. In its January 25th Order, the Commission agreed and ordered the SO Program to begin on August 1, 2013:

Upon consideration of the evidence of record, we find that the SO Program should be implemented beginning on August 1, 2013. ... With regard to Duquesne's assertions regarding its IT capabilities, we are persuaded by the arguments of RESA and FES that Duquesne should be able to accommodate a switch that occurs through the SO Program just as it has accommodated switches outside of RME programs for many years.

January 25th Order at 151. In response to the Commission's Order, Duquesne developed the revised enrollment process, which would enable it to begin the program by August 1, 2013. The revised process, as suggested by RESA and FES, is more akin to Duquesne's current process for handling customers interested in switching to an alternative supplier than the process it originally proposed. RESA and FES cannot have it both ways. They cannot argue for a process that more closely mirrors Duquesne's existing protocol for switching customers (as a means of facilitating an earlier start to the program) and then complain when Duquesne proposes one, particularly when the Commission agreed with them and so ordered.

A third reason for opposing a return to Duquesne's original SO Program proposal or the third party alternative is RESA and FES' concern that the revised SO Program enrollment process will shift costs to the SO Suppliers. The OCA submits that RESA and FES have not identified any specific costs that they will incur. Electric Generation Suppliers (EGSs) already have call centers and trained representatives to sell the array of products that they offer. These representatives are specifically trained to do this and fielding calls about the SO product should pose no particular difficulty. Moreover, as noted above, the level of the customer referral fee will be adjusted for the second year of the program once Duquesne's costs are known.

B. Duquesne's Revised SO Proposal Builds On EGS' Core Strengths

In its Comments, RESA argues that Duquesne's revised SO enrollment process is likely to result in a negative experience for customers interested in enrolling in the program. RESA Comments at 4-5. As the revised process provides for an interested customer to be transferred to the SO Suppliers' call center, RESA maintains that rather than speaking with a customer service representative from Duquesne, the customer will be speaking with a representative of another company. RESA states that the transfer of the call to a second call center, to a company not as well known as Duquesne, and with the need to gather information from the customer, is likely to "turn off" customers. *Id.* at 4.

In response, the OCA would again note that RESA previously argued in favor of Duquesne using procedures for enrollment that are similar to those it currently has in place for customers interested in switching to EGSs. Duquesne's revised SO proposal uses these same procedures. In addition, prospective SO customers are transferred only with their consent, so they are aware of what is happening. Further, the OCA would note that while RESA is critical of Duquesne's revised enrollment procedure, RESA's alternative proposal, using a third party call center, suffers from the same flaw RESA sees in Duquesne's proposal – switching a prospective SO customer's call to a second, unfamiliar call center.

The OCA submits that Duquesne is correct when it asserts in its Revised RME

Filing that:

The Company's [revised] proposal is more effective in that EGSs already have personnel trained to discuss their products and answer customer questions. This allows the EGS to keep and expand their core competency by direct conversation of their product offering to customers.

Revised RME Filing at 14, ¶ 48. The OCA also agrees with Duquesne's assertion that:

While Duquesne Light's revised proposal for the SO Program converts a customer contact with [Duquesne] to a customer referral to an EGS, it does not require EGSs to do any more work in enrolling the customers than they do in their normal course of business.

Id. at 14, ¶ 50.

Indeed, as Duquesne notes, marketing and customer contact are core functions and core competencies for any EGS. It would seem that the party in the best position to explain and “sell” a customer on the SO product would be the entity offering it.

C. Duquesne’s Proposal to Charge A Customer Referral Fee for Enrollments Submitted Within Five Business Days of a Transferred SO Call is a Reasonable Attempt to Safeguard Residential and Small Business Customers Against Unwarranted Charges.

Duquesne’s revised SO Program proposes to charge SO Suppliers a customer referral fee (initially \$25) for: (1) the number of EDI transactions submitted by an SO Supplier for the SO product; and (2) the number of EDI transactions submitted by an SO Supplier for any non-SO product sold to a customer that Duquesne referred to the SO Supplier at any time during the five business days prior to submission of the EDI transaction. In its Comments, FES objects to being charged a fee for a customer who enrolls in something other than the SO Program within five business days of being referred to the SO Supplier. FES asserts that if a prospective SO customer is transferred to the SO Supplier, declines the SO product, terminates the call but later calls back to sign up for another product with that EGS, the SO Supplier should not be obligated to pay an SO customer referral fee. Under these circumstances, FES maintains that retail competition has been successful but that the success should not be attributed to the SO Program. Rather, FES asserts, the customer’s enrollment is more likely to be the result of the EGS’ marketing efforts than the SO Program. FES Comments at 4. FES states that if the Commission decides to approve Duquesne’s revised SO enrollment process, the program rules

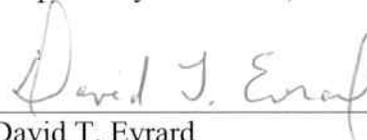
should be modified to require payment of a customer referral fee only if the customer signs up with the EGS during the initial transferred call. Id. at 5

The OCA submits that by proposing the five business day provision, Duquesne is judiciously attempting to guard against the possibility of EGSs taking advantage of the transferred SO calls to sell a different product, delay the enrollment and thereby avoid incurring a customer referral fee. This is important because in its revised SO proposal, Duquesne provides that all costs incurred in excess of the customer referral fees are to be recovered from residential and small commercial and industrial customers through a nonbypassable charge. The five business day provision is thus an effort to protect Duquesne's customers from suppliers who might seek to take advantage of the SO process to gain customers without paying the customer referral fee. The OCA submits that this provision of Duquesne's revised SO proposal represents a reasonable compromise between allowing EGSs to present other products to prospective SO customers and protecting residential and small commercial customers from having to bear costs that should properly be borne by the EGSs who benefit from the SO referrals.

III. CONCLUSION

The OCA submits that Duquesne's revised Standard Offer Program proposal meets the Commission's directive to minimize costs, builds on the core strengths of the Electric Generation Suppliers who will be offering the program and includes reasonable provisions designed to protect its customers from having to bear any unwarranted costs related to the program. For these reasons, the Commission should approve Duquesne's revised Standard Offer Program.

Respectfully Submitted,



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April 22, 2013

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CERTIFICATE OF SERVICE

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 :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Reply Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 22nd day of April 2013.

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