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September 15, 2014

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
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, 2015 through May 31, 2017; Docket No. P-2014-2418242

Dear Secretary Chiavetta:

Enclosed on behalf of Noble Americas Energy Solutions LLC please find its Main Brief in the above-captioned matter. Copies of the Main Brief are being served upon the persons and in the manner set forth on the attached certificate of service.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Charles E. Thomas, III

Encl.

cc: Honorable Katrina L. Dunderdale (w/encl.)  
Certificate of Service (w/encl.)  
Becky Merola (w/encl.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Petition of Duquesne Light Company for** :  
**Approval of Default Service Plan for the** : **Docket No. P-2014-2418242**  
**Period June 1, 2015 through May 31, 2017** :

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**MAIN BRIEF  
OF  
NOBLE AMERICAS ENERGY SOLUTIONS LLC**

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DATED: September 15, 2014

## **I. PROCEDURAL HISTORY**

This proceeding concerns the petition of Duquesne Light Company (“Duquesne”) filed on April 24, 2014 with the Pennsylvania Public Utility Commission (“Commission”) seeking approval of its seventh Default Service Program (“DSP VII”) to establish terms and conditions under which Duquesne will acquire and supply default service for the period from June 1, 2015 through May 31, 2017. The petition also seeks approval of a Time-of-Use Program and other approvals required for the implementation of the Plan.

On June 2, 2014, a Prehearing Conference was convened before presiding Administrative Law Judge Katrina L. Dunderdale, at which time a procedural schedule was established and other preliminary matters were discussed. On June 12, 2014, Judge Dunderdale issued a Prehearing Order confirming the procedural schedule adopted at the prehearing conference and granting the petitions to intervene filed by the various parties, including Noble Americas Energy Solutions LLC (“Noble”).<sup>1</sup>

In accordance with the procedural schedule, direct testimony was submitted by various intervening parties on July 8, 2014. Rebuttal testimony was filed on August 1, 2014, and surrebuttal testimony was filed on August 15, 2014. Duquesne filed rejoinder testimony on August 21, 2014. Noble did not submit any testimony in the proceeding, but reserved its right to participate in all other aspects of the proceeding, including the submission of briefs and other pleadings authorized under the Commission’s regulations. An evidentiary hearing was held on

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<sup>1</sup> In addition to Noble, Judge Dunderdale also granted intervention to Duquesne Industrial Intervenors (“DII”), Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Sustainable Energy Fund (“SEF”), Citizens for Pennsylvania’s Future (“PennFuture”), NextEra Energy Power Marketing, LLC (“NEPM”), Retail Energy Supply Association (“RESA”), Exelon Generation Company, LLC (“ExGen”), and FirstEnergy Solutions Corp. (“FES”). The Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), and the Commission’s Bureau of Investigation and Enforcement (“I&E”) also intervened in the matter.

August 25, 2014 in Harrisburg, at which time parties moved their respective testimonies and exhibits into the record.

On or about September 15, 2014, a Stipulation was filed by Duquesne, I&E, OCA, CAUSE-PA, ExGen, NEPM, and RESA, resolving a number of issues raised by the parties in the proceeding, including Residential procurement, Standard Offer Program, Time of Use Program, Supply Master Agreement, and unbundling of default service costs. The Stipulation reserved, however, certain issues for litigation, *viz.* issues pertaining to small commercial and industrial (“C&I”) procurement, Medium C&I procurement, Large C&I procurement, long-term alternative energy credit, and non-market based (“NMB”) charges. Noble, OSBA, PennFuture, DII, and FES were not signatories to the Stipulation, but agreed not to oppose it.

Noble submits this Main Brief in accordance with the briefing schedule established by the Prehearing Order and the common briefing outline agreed to by the parties pursuant to Judge Dunderdale’s direction at the evidentiary hearing. Noble limits the discussion in its Main Brief to matters related to cost recovery of certain PJM charges (Section III.E.2.) in connection with the rate design and cost recovery proposed by Duquesne’s DSP VII. Noble takes no position at this time with respect to the other issues reserved for litigation.

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### III. ARGUMENT

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#### E. Rate Design

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##### 2. Recovery of Certain PJM Charges

Noble’s principal area of interest with respect to the rate design and cost recovery of Duquesne’s DSP VII relates to the cost responsibility and the methodology for recovering certain PJM transmission charges, *viz.* Network Integration Transmission Service (“NITS”) and other non-market based (“NMB”) charges. Presently, Electric Generation Suppliers (“EGS”) are responsible for NITS charges as Load Serving Entities (“LSE”). Noble supports Duquesne’s proposal under its DSP VII, as filed, which would continue to require LSEs, such as EGSs, to maintain responsibility for PJM charges assigned to LSEs.<sup>2</sup> Such an approach is consistent with Duquesne’s present practice under its existing default service plan, which was approved by the Commission in connection with Duquesne’s DSP VI proceeding.<sup>3</sup>

RESA and ExGen advocate proposals which would require Duquesne to assume responsibility for collecting and recovering certain NMB charges, including NITS, from shopping and non-shopping customers. RESA, in this instance, argues that transferring PJM costs from LSEs to Duquesne is warranted because the future amount of those cost items are unpredictable and unknown and, thus, EGSs cannot hedge the associated risks.<sup>4</sup> Non-market based transmission costs should, therefore, be recovered from all distribution customers through a non-bypassable rider to Duquesne’s tariff.<sup>5</sup>

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<sup>2</sup> Duquesne St. No. 4-R at 20.

<sup>3</sup> Duquesne St. No. 4-R at 21.

<sup>4</sup> RESA St. No. 1 at 22.

<sup>5</sup> RESA St. No. 1 at 21-23. ExGen makes similar arguments. *See* ExGen St. No. 1 at 4-5.

Despite RESA's current contentions, NMB costs are manageable and to change them would unnecessarily shift risk, harming existing retail contracts and retail customers. NITS costs, in particular, are predictable from year to year. As Duquesne witness Pfrommer acknowledged, RESA "is overstating the risk associated with non-market based charges. The majority of the costs are NITS costs, and these costs are fixed on a yearly basis from June 1 - May 31 of each year."<sup>6</sup> An EGS's ability to manage its NITS and other NMB costs is an accepted responsibility and inherent risk of competing in the retail market.

Noble submits that a customer's ability to manage its NITS costs enables the customer and their supplier to effectively manage their load obligations and allows for further development of product and service offerings in the marketplace which provide a meaningful benefit to retail electric service customers regardless of size. Adopting RESA's non-bypassable proposal limits customer choice and would have an adverse effect on the shopping decisions by customers. A non-bypassable rider would create a situation that limits a customer's ability to negotiate contracts relative to a variety of competitive retail products. It also would result in the double collection of transmission service costs by both Duquesne and the EGS

As Duquesne witness Pfrommer explained:

[C]ustomer choice was designed such that the transmission component of the rates was unbundled and "portable." ... Modifying the Transmission Service Charge ("TSC") from bypassable to non-bypassable would contradict the design of customer choice. RESA and Exelon apparently want to return to bundled transmission and distribution rates.<sup>7</sup>

Mr. Pfrommer continued:

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<sup>6</sup> Duquesne St. No. 4-RJ at 5-6.

<sup>7</sup> Duquesne St. No. 4-R at 19-20. It is interesting that while RESA's proposal would result in the rebundling of transmission costs with distribution rates, RESA conveniently advocates for the unbundling of certain default service costs with respect to other charges in this very same proceeding. *See* RESA St. No. 1 at 21; *see also* Duquesne St. No. 4-R at 10-11.

[C]hanging the content and structure of the TSC would have a negative impact on current shopping customers. Current shopping customers are paying their EGS for applicable transmission charges through the rates charged by the EGS. Implementing a non-bypassable charge could cause shopping customers to pay twice for transmission service. Customers locked-in to EGS contracts could be harmed for a significant length of time. This would create customer confusion as well as problems between EGS's and the Company.

...Allocating all of the transmission charges into a pass-through non-bypassable charge for all customers is a "one-size fits all approach" that would limit the breadth of options available to customers in the competitive market.<sup>8</sup>

Noble also cautions that retail electric contracts, particularly contracts with large commercial and industrial customers, can often carry three (3) year terms. By adopting a proposal similar to RESA's which would change the way in which non-market based charges, like NITS, are currently handled, existing contracts could be adversely impacted. Moreover, any attempt to divide customers up by volume with respect to the treatment of NITS would be very problematic in terms of settlements with PJM, which does not recognize any artificial division of load.

RESA's and ExGen's proposals to reassign NITS and other NMB costs to Duquesne and recover such costs through a non-bypassable charge are neither new nor novel. The Commission has previously considered and rejected similar proposals in prior default service cases,<sup>9</sup> and it should do so again in this proceeding. Accordingly, Noble recommends that the status quo be maintained such that LSEs, including licensed EGSs, continue to maintain responsibility for their own NITS costs. Should the Commission, however, adopt an approach which would socialize these PJM transmission charges and shift the market risk to the ratepayers in Pennsylvania, Noble submits that the entire load should be moved to a non-bypassable charge for ISO

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<sup>8</sup> Duquesne St. No. 4-R at 20.

<sup>9</sup> Duquesne St. No. 4-R at 21.

settlement purposes and that it should not become effective without three years advance notice so as to not effect current retail contracts.

\* \* \*

**I. General Miscellaneous Issues**

Noble reserves the right to respond in its Reply Brief to positions taken and arguments raised by the other parties on any other issues relevant to this proceeding.

**IV. CONCLUSION**

For the foregoing reasons, Noble Americas Energy Solutions LLC respectfully requests that Administrative Law Judge Katrina L. Dunderdale issue a Recommended Decision granting the Petition of Duquesne Light Company for approval of its seventh Default Service Program consistent with the limited recommendations stated herein.

Respectfully submitted,



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DATED: September 15, 2014

Petition of Duquesne Light Company for :  
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Period June 1, 2015 through May 31, 2017 :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 15<sup>th</sup> day of September, 2014, served a true and correct copy of the foregoing document upon the persons and in the manner set forth below:

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