

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of Duquesne Light Company** :  
**for Approval of Its Time-of-Use Program** :  
**for the Year Commencing June 1, 2016 and** : **Docket No. P-2015-2506002**  
**Ending May 31, 2017** :

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**Petition to Intervene  
of the Coalition for Affordable Utility Services  
and Energy Efficiency in Pennsylvania**

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Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code §§ 5.61-5.76, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, files this Petition to Intervene in the above captioned proceeding regarding the Petition filed by Duquesne Light Company (“Duquesne Light” or “the Company”) for Approval to implement a Time-of-Use (“TOU”) Program for the year commencing June 1, 2016, and ending May 31, 2017. In support, CAUSE-PA states as follows:

1. Duquesne Light initially proposed a TOU program in its Default Service Plan for June 1, 2015 through May 31, 2017, filed on April 24, 2014, at Docket No. P-2014-2418242.
2. On January 15, 2015, the PUC approved a Settlement Stipulation (Settlement) in the Default Service Plan case.
3. The Settlement approved Duquesne Light’s Time-of-Use Program for Residential, Small C&I and Medium C&I customers with the necessary data collection and communications systems in place, provided those systems had been successfully tested. The Settlement specifically excluded Customer Assistance Program (“CAP”) customers from the TOU program, and required

Duquesne Light to conduct a collaborative to develop a TOU Program that (1) allowed multiple EGSs to participate and (2) explored how to effectively integrate CAP. The collaborative was to commence no later than June 30, 2015, and continue for 60 days. The Settlement further provided that Duquesne Light was to file a TOU program proposal on September 30, 2015, that reflected any consensus achieved in the collaborative and setting forth a proposal on unresolved issues. The Commission would then provide an opportunity to comment by interested parties, and issue a final order by January 31, 2016.

4. On May 28, 2015, Duquesne Light petitioned the Commission for a waiver to delay implementing a TOU program until June 1, 2016. The Commission granted that Petition for Waiver on July 30, 2015, accepting Duquesne Light's argument that waiting until June 2016 would allow more customer and EGS participation and made the most sense from a resource utilization standpoint. *See Petition of Duquesne Light Company For An Extension of Time or Waiver To Meet Certain Regulatory Requirements*, Docket No. P-2015-2484590.

5. Duquesne Light convened a collaborative in June and July of 2015. CAUSE-PA participated in the collaborative meetings, as did the Office of the Consumer Advocate. No EGSs participated in the collaborative meetings.

6. On September 30, 2015, Duquesne Light filed the current Petition to implement a Pilot Time-of-Use Program commencing June 1, 2016.

7. CAUSE-PA files this Petition to Intervene to preserve its right to fully participate in this proceeding.

#### **Petition to Intervene**

8. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that “[a] petition to intervene may be filed by a person claiming a

right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).

9. Section 5.72 further provides that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a) (2).

10. Even though Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members ...as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing.” *Energy Cons. Council of Pa. v. Pa. P.U.C.*, 995 A.2d 465, 476 (Pa. Commw. 2010) (alteration in original) (*citing Tripps Park v. Pa. P.U.C.*, 415 A.2d 967 (Pa. Commw. 1980); *Parents United for Better Schools v. School District of Philadelphia*, 646 A.2d 689 (Pa. Commw. 1994)).

11. CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating and telecommunication services.

12. CAUSE-PA membership is open to moderate and low income individuals residing in the Commonwealth of Pennsylvania who are committed helping low-income families maintain affordable access to utility services and achieve economic independence.

13. CAUSE-PA is located, c/o the Pennsylvania Legal Aid Network, at 118 Locust Street, Harrisburg, PA 17101.

14. CAUSE-PA has interests in the impact that the proposed Time-of-Use Program has on moderate and low income residential customers. These interests are not adequately represented by other participants.

15. At least one member of CAUSE-PA is a customer of Duquesne Light and will be directly affected by the outcome of this proceeding.<sup>1</sup>

16. Because at least one member of CAUSE-PA has or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding, CAUSE-PA has standing to intervene. *See Energy Cons. Council of Pa.*, 995 A.2d at 476.

17. CAUSE-PA is represented in this proceeding by:

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Counsel for CAUSE-PA consents to the service of documents by electronic mail to [pulp@palegalaid.net](mailto:pulp@palegalaid.net), as provided in 52 Pa. Code § 1.54(b)(3).

**Issues to be further addressed in Comments and/or formal proceeding**

18. CAUSE-PA has reviewed Duquesne Light Company's Petition and identified a number of issues presented by the filing which may positively or negatively affect its members. CAUSE-PA anticipates that additional issues may arise as a more comprehensive review of the filing is undertaken, including the filing of comments. Filing this Petition to Intervene should not be

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<sup>1</sup> Dorothy Young, Rochelle Jackson, and Anastasia Stratigos are all members of CAUSE-PA and customers of Duquesne Light Company.

construed as a waiver of CAUSE-PA's right to fully participate in this proceeding. CAUSE-PA explicitly reserves the right to file a full set of comments or otherwise participate in this proceeding as a procedural schedule is developed.

19. It is critical for CAUSE-PA to intervene in the proceeding to resolve potential negative aspects of Duquesne Light's Plan and to ensure that the positive aspects of the Plan are not changed, including but not limited to the following:

- a. CAUSE-PA is concerned about the legality of Duquesne Light's proposal to outsource Time-of-Use service to Electric Generation Suppliers (EGSs) in light of the Commonwealth Court's holding in *Dauphin County Ind. Dev. Auth. v. Pa. P.U.C.*, Docket No. 1814 C.D. 2014, Order entered September 9, 2015.
- b. Given the uncertainty surrounding an out-sourcing model, CAUSE-PA is concerned about the cost burdens to be borne by Duquesne Light's non-CAP, low-income customers as a result of Duquesne's TOU Program proposal. Petition ¶¶ 20-21.
- c. CAUSE-PA supports Duquesne Light's exclusion of CAP customers from the TOU Program. Petition ¶ 15. In addition, CAUSE-PA asserts that potentially CAP eligible customers should be reviewed by Duquesne for CAP eligibility and enrollment before being enrolled in the TOU program;
- d. CAUSE-PA asserts that there must be meaningful and clear information about the parameters of the TOU program and the rates associated with the TOU program, such that customers understand what they are signing up for;
- e. CAUSE-PA asserts that Duquesne Light and the EGSs should provide low-income customers information up front that if they fall behind on the TOU program they

can enroll in the CAP program.

- f. CAUSE-PA is concerned about the consequences for low income consumers enrolled in the TOU Program who fall behind on their bills due to circumstances beyond their control, as Duquesne Light's proposal requires TOU customers to remain current. Petition ¶ 15.
- g. CAUSE-PA is concerned about adequate safeguards and information for low income customers who may stay with their EGS following the TOU program year. Petition ¶ 15.

20. Each of these matters, as presented within the Petition, and any future modifications presented by intervening parties, must be thoroughly discussed in comments to ensure that the Duquesne Light's low-income customers are not harmed and the programs are in the public interest.

WHEREFORE, CAUSE-PA respectfully requests that the Commission enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**  
*Counsel for CAUSE-PA*



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Dated: 10/28/2015

### Verification

I, **Dorothy Young**, a member of the Executive Committee of the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



Ms. Dorothy Young

On behalf of the Executive Committee of the  
Coalition for Affordable Utility Services and  
Energy Efficiency in Pennsylvania (CAUSE-PA)

Date: October 28, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served copies of the **Petition to Intervene**, as set forth below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA EMAIL and FIRST CLASS MAIL**

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**Dated: October 28, 2015**

Respectfully submitted,  
**PENNSYLVANIA UTILITY LAW PROJECT**  
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