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September 9, 2016

E-FILED

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: **Proceeding to Evaluate Transition to Corrected Non-Solar Tier I Calculation
Methodology
Docket No. M-2009-2093383**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Reply Comments regarding the above-referenced proceeding.

If you have any questions regarding the filing, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads "Shelby A. Linton-Keddie".

Shelby A. Linton-Keddie
Manager, State Regulatory Affairs
And Senior Legal Counsel

Enclosure

cc: Scott Gebhardt (sgebhardt@pa.gov)
Kriss Brown (kribrown@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Proceeding to Evaluate Transition to
Corrected Non-Solar Tier I Calculation
Methodology**

Docket No. M-2009-2093383

**REPLY COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. BACKGROUND

On July 8, 2016, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) notified all electric generation suppliers (“EGSs”) and electric distribution companies (“EDCs”) via a Secretarial Letter that it discovered an error in how non-solar Tier I Alternative Energy Credits (“AEC”) quarterly adjustments have been calculated. To give affected parties more time to address the issue for the 2016 compliance year, the Commission issued a second Secretarial Letter on August 9, 2016, that extended the true-up adjustment period until November 30, 2016.

Thereafter, on August 15, 2016, the PUC issued a *Tentative Order*, containing two proposals of how to address the non-solar Tier I shortfall, but soliciting comments on other ideas. Pursuant to the *Tentative Order*, interested parties had fifteen days from the date of service to file comments, i.e., on or before August 30, 2016, with reply comments due on or before September 9, 2016. Consistent with the *Tentative Order*, Duquesne Light Company (“Duquesne Light” or “Company”) submitted comments for the Commission’s consideration. Comments were also submitted by: Conoco Phillips, Direct Energy, Energy Association of Pennsylvania (“EAP”), Industrial Customer Groups,¹ Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, “First Energy”), National Energy Marketers (“NEM”), Office of Consumer Advocate (“OCA”), Office of Small

¹The Industrial Customer groups are comprised of Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PPL Industrial Customer Alliance and West Penn Power Industrial Intervenor.

Business Advocate (“OSBA”), PECO Energy Company (“PECO”), PPL Electric Utilities Corporation (“PPL”), the Retail Energy Supply Association (“RESA”) and WGL Energy Services (“WGL”).

Consistent with the schedule in this proceeding, Duquesne Light hereby submits reply comments regarding its position on how best to address this issue for the Commission’s consideration.

II. REPLY COMMENTS

The *Tentative Order* suggested two proposals to remedy the error in the non-solar Tier I calculation for the 2016 compliance year. The first proposal would have EDCs procure the additional non-solar Tier I credits (either on the spot market or through competitive bid) and would also transfer credits to all load serving entities (“LSEs”) within the EDC’s distribution zone. Under this option, the cost for the EDCs to procure these additional credits would be recovered in a pre-existing non-bypassable charge on a rider as determined by the EDC. The second option would not shift any statutory obligations for these credits, instead make both EDCs and EGSs liable for the unexpected increase, and simply delay the period for this addition either to November 30, 2016, as currently granted, or sometime in the future.

Not surprisingly, every EGS that submitted comments in this proceeding seeks to have the unanticipated seven percent increase for 2016 shifted to EDCs and EDC ratepayers to be collected through a non-bypassable surcharge. Furthermore, some EGSs believe this obligation for the increase should also be extended for 2017 and 2018,² while at least one EGS believes that this should be transferred to EDCs through 2020.³

² See, e.g. RESA Comments 9,10.

³ WGL Comments at 2.

Conversely, every other party that submitted comments, inclusive of EDCs, two Statutory Advocates and Industrial Customers, questioned the Commission's authority and legality of shifting statutory obligations of EGSs to EDCs for any portion of AEPS requirements and generally recommend, for a host of reasons, that the better option of the two is to retain the AEPS obligations but be flexible with compliance periods.⁴

Consistent with its Comments, Duquesne Light does not support any option that relieves EGSs of their statutorily required obligation to procure AECs on their customers' behalf. As every non-EGS commenter notes, not only does this suggestion overstep the Commission's authority under the AEPS Act, but it also is fraught with difficulties from an implementation perspective.

AEPS standards and obligations have been in place since 2005 and are a cost of doing business when serving retail electricity supply in Pennsylvania. While Duquesne Light concedes that the adjustment at issue here was unanticipated and, as a result, creates issues and considerations that need to be worked through, the fact that the increase could not have been anticipated in and of itself is not a sufficient reason to shift any portion of EGSs' AEPS statutory obligations to EDCs.

In essence, the plea of EGSs is that this adjustment will impact current contracts, change some assumptions and impact their bottom line. Arguments about stranded costs due to limitations of changes with Fixed Price contracts, the fact that there is no certainty that this adjustment can be obtained from customers who may no longer be with that EGS or any

⁴ See, generally, Comments of Duquesne Light, EAP, First Energy, PECO, PPL, Industrial Customer Groups, OCA and OSBA.

suggestion that this adjustment, by itself, may impede Standard Offer participation thus threatening the success of that program should be summarily rejected by the Commission.

As OSBA aptly stated in their comments:

For EGSs, the matter of AEC cost recovery is a contract issue with their customers. If an EGS's contract permits the cost of procuring AECs to be recovered from customers on a pass-through basis, then the cost of the adjustment AECs can simply be passed through to customers. If no such contract pass-through language exists, then the EGS has voluntarily absorbed the risks associated with AEC requirements and should be prepared to absorb the cost of the adjustment AECs for the 2016 [and subsequent] compliance year[s] as a cost of doing business.

OSBA Comments at 2.

The retail electricity market in Pennsylvania is transient. This is demonstrated month after month when the Commission releases the Electric Shopping numbers. Statutory obligations like the ones at issue here, however, are permanent unless changed by the legislature. EGSs are no more guaranteed a profit than EDCs are guaranteed to achieve a specific rate of return. The only guarantee is an opportunity to earn what is projected at a particular point in time.

To that end, Duquesne Light reiterates its suggestion that the Commission adopt its second proposal to delay the obligation for the settlement period for parties that need it in order to absorb the unexpected seven percent increase. Doing so ameliorates the impact this unexpected seven percent increase would otherwise bear on the market and more readily allows EDCs, as well as EGSs, the ability to utilize existing scheduled solicitations or spot market or a combination of both to meet its statutory obligations. A delay until the 2017 compliance year (or later) would also allow default service providers to adjust the requirements in future solicitations and clearly communicate the addition prior to receiving bids. A push to get this done by November 30, 2016 does none of this.

CONCLUSION

Duquesne Light appreciates the opportunity to participate in a solution that complies with the AEPS Act and limits disruptions in the retail market. After reviewing other parties' comments in response to the *Tentative Order*, Duquesne Light is even more convinced that the best solution is to delay the true-up period to 2017 or beyond, thus allowing sufficient time for both EDCs and EGSs to resolve the unanticipated adjustment while adhering to their statutory obligations under the AEPS Act.

Respectfully submitted,



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