

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of Duquesne Light Company for Approval of a Default
Service Program for the Period of June 1, 2017 through May 31,
2021**

Docket Nos. P-2016-2543140

**STATEMENT IN SUPPORT OF JOINT PETITION FOR APPROVAL OF NON-
UNANIMOUS SETTLEMENT OF THE COALITION FOR AFFORDABLE UTILITY
SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)**

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), by its counsel at the Pennsylvania Utility Law Project, submits this Statement in Support of the Joint Petition for Approval of Non-Unanimous Settlement (“Settlement”) of all issues in the captioned proceeding. CAUSE-PA joins the other parties and requests that the Pennsylvania Public Utility Commission (“PUC” or “Commission”) approve the Settlement without modification.

I. INTRODUCTION

CAUSE-PA intervened in this proceeding to address Duquesne Light Company’s (Duquesne) proposal to allow its low-income customers participating in its Customer Assistance Program (CAP) to switch to an electric generation supplier (EGS) for their generation service and retain their CAP benefits. Importantly, Duquesne recognized that protections must be put into place to ensure that CAP remains affordable for Duquesne’s low-income customers, and the program remains cost-effective and affordable for the ratepayers who pay for CAP.

CAUSE-PA submitted direct and rebuttal testimony addressing the issue of CAP customer shopping in detail along with several exhibits. All of this evidence was entered into the record of this proceeding at the hearing on August 30, 2016.¹ CAUSE-PA has actively participated in good faith discussions with the other parties to achieve the negotiated settlement of the contested issues presented in this case. The only remaining contested issue is Noble Americas Energy Solutions LLC's ("Noble") opposition to Paragraph 22 of the Settlement which, according to Noble, "if approved, would eliminate the uncollectible expense component of Duquesne's Purchase of Receivables ("POR") discount for open market, competitive electric generation suppliers (EGS) that elect to participate in the POR program."² This provision does not implicate the CAP shopping issues that were otherwise satisfactorily resolved in this proceeding pursuant to Paragraphs 24-25 of the Settlement.

In CAUSE-PA's view, the Settlement is in the public interest in that it addresses issues of concern affecting Duquesne's low-income customers, balances the various interests of the parties, and resolves the contested issues fairly. If approved, the Settlement will reduce the possibility of further litigation and appeals along with their attendant costs.

II. BACKGROUND

CAUSE-PA adopts the background set forth in Paragraphs 1-12 of the Joint Petition for Approval of Non-Unanimous Settlement as if fully stated herein.

¹ Specifically, CAUSE-PA submitted the following pieces of testimony: CAUSE-PA Statement No. 1, the Direct Testimony of Harry Geller with attachments; and CAUSE-PA Statement No. 1R, the Rebuttal Testimony of Harry Geller. CAUSE-PA's testimony was admitted into evidence at the hearing held on August 30, 2016 and was electronically filed with the Secretary's Bureau on August 31, 2016.

² See Letter of Opposition to Non-Unanimous Settlement filed by Noble on September 23, 2016 at Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period of June 1, 2017 through May 31, 2021, Docket No. P-2016-2543140.

III. REASONS FOR SUPPORT OF THE SETTLEMENT

The evidence in this proceeding demonstrates that any CAP shopping program must include “protections that would prevent CAP customers from paying more than the price to compare, and mitigate any increased risk of termination resulting from higher prices for electric service.”³ Without these core protections, economically fragile CAP customers face an unreasonable risk of losing service. Furthermore, these conditions are necessary to meet the requirements of the Electricity Generation Customer Choice and Competition Act (“Choice Act”) which mandates that the Commission is obligated to “continue the protections, policies and services that now assist customers who are low-income to afford electric service” in the competitive environment.⁴ Specifically, direct access by low-income retail customers to the competitive generation market must be conditioned upon ensuring that the affordability of electric service to economically vulnerable citizens is not diminished. The following terms of the Settlement address the issues of concern to CAUSE-PA and reflect a carefully balanced compromise of the interests of the parties in this proceeding.

In Paragraph 24, the parties have agreed that “CAP shopping shall be postponed until June 1, 2021, the commencement of DSP IX.” This provision is significant. As indicated in CAUSE-PA’s Direct Testimony, “Duquesne’s CAP customers have never been permitted to shop for competitive generation supply from an EGS while on CAP. This means that nearly all of the more than 35,000 CAP customers have no experience in the competitive electric market.”⁵ Furthermore, as outlined at length in testimony, a review of the data from other utility service territories that do

³ See Duquesne Light Response to I&E – Set II, No. 6a, attached to CAUSE-PA’s Direct Testimony at Appendix B.

⁴ 66 Pa. C.S. § 2802(10).

⁵ CAUSE-PA Statement No. at 13:17-20.

currently allow CAP customer shopping reveals that CAP customers have been significantly harmed by their participation in the competitive electric generation market:

[I]n PPL's most recent universal service plan proceeding, PPL Electric determined that the primary impact of high supplier prices for its shopping CAP customers is to increase the "burn rate" of CAP credits and that if they select a supplier with very high energy prices CAP customer shopping can affect customers' ability to remain in the program. PPL produced evidence in its DSP that makes it clear that a significant number of PPL's CAP customers who are shopping paid more than the price to compare. For calendar year 2015, an average of 52% of PPL's customers shopped each month, and of those customers who were shopping, an average of 46% paid more than the price to compare.

The numbers are worse when disaggregated over the four year period from January 2012 through February 2016. In response to discovery, PPL produced a table that revealed some alarming statistics. Every month from January 2012 through February 2016, at least 42% of CAP customers who shopped paid more than the PTC, and in 6 of those months, 88-99% of shopping CAP customers paid more than the PTC. In most months over this more than four-year period of time, between 45%-70% of CAP customers paid more than the price to compare. I have attached this chart to my testimony in Appendix D, as it shows the full scale of the harm. ***This information shows that the harm to CAP customers is neither of limited duration nor isolated to a single point in time, but rather is a consistent and continuing concern produced by the unrestricted interaction of CAP customers and the competitive electric market.***

Specifically, the data also shows that those customers who paid more than the price to compare ***paid significantly more***, as compared to the savings achieved by customers who paid less than the price to compare. In the month in which CAP customers who shopped paid the highest percentage more than the price to compare, they paid on average 101% more per kWh. But in the month when CAP customers who shopped achieved the greatest savings, they paid only 14% less than the price to compare.

...

The net impact of CAP customer shopping over the 46- month period from January 2012 through October 2015 is \$2,743,872 per year. That is, as a result of CAP customer shopping without restriction, as is presently occurring in the PPL service territory, residential ratepayers are paying \$2,743,872 more per year for the CAP program than they would have paid if all CAP customers simply paid the PTC. None of this more than \$2.74 million promoted universal service goals under the Choice Act to assist low-income customers better meet their home energy needs.

In fact, these increased costs resulted in reducing affordability for CAP customers. Since program costs are intended to assist low-income customers afford and maintain essential utility service, they should not be increased by more than \$2.74 million per year for the purpose of paying generation rates which are higher than the default price.

Substantially similar data was produced in the First Energy Company Service territories. The reported data from that proceeding appears to show that as of November 2015, more than 77% of Met-Ed's CAP customers, more than 50% of Penelec's CAP customers, and more than 65% of West Penn's CAP customers who are shopping are paying a price higher than the price to compare.⁶

Consequently, despite the fact that Duquesne's CAP customers are currently not permitted to shop for EGS-supplied generation service, there is no reason to believe that the long-term results would be any different in Duquesne's territory than in the other Pennsylvania utility service territories that have allowed and developed a history of CAP shopping.

Because of this data, CAUSE-PA recommended that the issue of CAP shopping be dealt with in a manner that ensured that CAP customers don't pay more than the price to compare. Although CAUSE-PA proposed a specific mechanism for doing so in this proceeding, delaying the implementation of CAP shopping until June 2021 accomplishes these same core ends, at least for the time being, and is a reasonable step given the implementation issues raised by Duquesne Light in their surrebuttal testimony.

In surrebuttal, for the first time, Duquesne Light said that it did not believe that it could implement the proposals suggested by CAUSE-PA and the Office of Consumer Advocate ("OCA") in the case. Specifically, Duquesne stated:

While the Company supports the overall proposals made by [CAUSE-PA's witness] and [the OCA's witness] to provide protections to CAP customers that shop to ensure that they continue to receive affordable electric service and that shopping does not negatively affect CAP credits, Information Technology (IT)

⁶ CAUSE-PA Statement No. 1 at 15-18 (internal citations to authority and footnotes omitted) (emphasis in original).

constraints prohibit the Company from implementing CAP shopping at this time, even under a CAP SOP program.⁷

Had CAUSE-PA known about these constraints earlier in the litigation, its position would have been to postpone implementation of CAP shopping until the constraints could be resolved. This is the case because it is consistent with the overarching paradigm for CAP shopping as explained by CAUSE-PA witness Geller:

In my judgment, a CAP customer should never be charged more than the default service price, regardless of whether they are on default service or being served by an EGS. It is not reasonable to approve discounts and reduced rates for low income customer classes, paid for by other residential customers, and at the same time approve a DSP plan which allows CAP customers to be charged higher rates that result in unaffordable or higher bills. Doing so contributes to higher collection costs and rates for all customers, and has multiple adverse impacts (financial as well as health and safety) on individual low income households.⁸

Paragraph 24 of the Settlement Agreement provides these protections by temporarily delaying CAP shopping while Duquesne's IT concerns can be address, as well as the settling of statewide policy concerning CAP shopping. Because of the significant potential for harm to CAP customers and other ratepayers from unrestricted CAP shopping, this provision, and the settlement as a whole, is in the public interest.

It is also significant that the delay is not permanent. In Paragraph 25, Duquesne commits to holding a CAP shopping collaborative in the fall of 2018, and commits to filing for approval of a CAP shopping program within its DSP IX filing, provided that other EDCs' CAP shopping programs have been approved by the Commission and have been successfully implemented. This process is in the public interest. The Commission is currently considering the PPL and PECO

⁷ Duquesne Light Company Statement No. 5-SR at 3:14-18.

⁸ CAUSE-PA Statement No. 1 at 18:20-19:3.

default service plans.⁹ Each of those proceedings includes proposed CAP shopping plans that are substantially similar to that which was proposed by CAUSE-PA in this proceeding. Those cases have been fully litigated and briefed. In the case of PPL, an Initial Decision was issued by Administrative Law Judge Susan Colwell on August 17, 2016, and the matter is now before the Commission for disposition of several parties' exceptions. In the case of PECO, a recommended decision is due by the end of September.

Through the settlement, Duquesne and other parties committed to addressing these issues in a collaborative, with the benefit of additional information from other companies. The collaborative will result in a filing in Duquesne's next DSP proceeding. This is plainly in the public interest. Ample evidence was presented demonstrating the harm associated with CAP customers paying more than the price to compare. This harm befalls not only CAP customers themselves, but also all of the residential ratepayers who pay for CAP and whose CAP rider has been increased because of higher costs paid in the competitive market. By allocating time to discuss these issues in a collaborative, the parties can appropriately vet the various options available to ensure that CAP customers who wish to access the competitive market can do so while being adequately protected from paying more for service than they need to pay. At the same time, given the diversity of views on this subject, it was essential to CAUSE-PA that if consensus was not able to be reached that Duquesne have a firm deadline by which they had to file an on-the-

⁹ See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2017 through May 31, 2021 at Docket No. P-2016-2526627; see Petition of PECO Energy Company for Approval of a Default Service Program for the Period of June 1, 2017 through May 31, 2019, at Docket P-2016-2534980

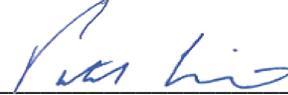
record petition to obtain a Commission decision about these issues. The settlement provisions contained in Paragraph 25 ensure that these issues will be both timely and adequately addressed.

IV. CONCLUSION

The Joint Petitioners arrived at the Settlement terms after conducting extensive discovery and engaging in discussions over several weeks. The terms and conditions outlined here, and those contained in the Joint Petition itself, constitute a carefully crafted package representing reasonably negotiated compromises on the issues of concern to each party in this proceeding. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391 and 69.401), and is supported by a substantial record. Furthermore, acceptance of the Settlement avoids the necessity of further administrative and possibly appellate proceedings regarding the settled issues at what would have been a substantial cost to the Joint Petitioners and Duquesne's customers.

Accordingly, CAUSE-PA respectfully requests that the ALJ and the Commission approve the Joint Petition for Settlement without modification.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2016, I have served copies of the **Statement in Support of CAUSE-PA**, via email and/or first class mail upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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