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January 31, 2017

**Efiled**

Ms. Rosemary Chiavetta, Secretary  
Commonwealth Keystone Building  
2nd Floor, Room-N201  
400 North Street  
Harrisburg, PA 17120

**Re: Petition of PPL Electric Utilities Corporation for Approval of a New Pilot Time-of-Use Program**  
**Docket No. P-2013-2389572**

**Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021**  
**Docket No. P-2016-2526627**

**Docket No. M-2016-2578051**

Dear Secretary Chiavetta:

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

Upon receipt, if you have any questions regarding the information contained in this filing, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shelby A. Linton-Keddie".

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

Enclosure

c: James A. Mullins ([jamullins@pa.gov](mailto:jamullins@pa.gov)) w/ electronic copy

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proceeding to Comply with Directives arising From <i>Dauphin County Industrial Development Authority v. Pa PUC</i>	: : :	Docket No. M-2016-2578051
Petition of PPL Electric Utilities Corporation For Approval of a New Pilot Time-of-Use Program	: : :	Docket No. P-2013-2389572
Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021	: : : : :	Docket No. P-2016-2526627

**REPLY COMMENTS OF  
DUQUESNE LIGHT COMPANY**

On December 2, 2016, the Pennsylvania Public Utility Commission issued a Secretarial Letter, aimed at initiating a proceeding to comply with the directives that arose from the Commonwealth Court’s order in *Dauphin County Industrial Development Authority v. Pa. PUC.*, 123 A.2d 1124 (Pa. Cmwlth. 2015) (“*DCIDA*”). As part of that Secretarial Letter, in addition to outlining the procedural history of *DCIDA* and the above-captioned PPL case associated with that proceeding, the PUC issued for comment a draft time of use (“TOU”) plan design, presumably applicable to all default service providers, which are currently Electric Distribution Companies (“EDCs”), as necessary. *See* Secretarial Letter at 3.

Pursuant to the Secretarial Letter, interested parties had until January 9, 2017, to comment “on the efficacy and legality of a draft TOU design” contained in the letter, with reply comments due by January 31, 2017. *See* Secretarial Letter at 3-4. Consistent with this directive, Duquesne Light Company (“Duquesne Light” or “Company”), an EDC and a current default service provider, submitted comments for the Commission’s consideration. Comments were also submitted by: the

Dauphin County Industrial Development Authority (“DCIDA”), Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, “First Energy”), the Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”), PPL Electric Utilities Corporation (“PPL”), PECO Energy Company (“PECO”), Pennsylvania Utility Law Project (“PULP”), the Retail Energy Supply Association (“RESA”) and the Sustainable Energy Fund (“SEF”).

In accordance with the schedule in this proceeding, Duquesne Light hereby submits reply comments to highlight areas of agreement with other parties and to ensure that, consistent with the guidance of the Commission in the Secretarial Letter and the Company’s most recent approved default service case,<sup>1</sup> the Company’s Customer Assistance Program (“CAP”) customers would not be eligible for a TOU program at this time.

### **REPLY COMMENTS**

In Comments, Duquesne Light explained that the holding in *DCIDA* was limited to finding that default service providers must have a TOU offering for customer-generators with smart meters, and that this obligation cannot be solely transferred to Electric Generation Suppliers (“EGSs”), since they are not required to offer TOU rates. Beyond this holding, the Commonwealth Court did not dictate any other program design parameters, but did remand the case for further Commission proceedings. In this regard, the Company agrees with the Retail Energy Supply Association (“RESA”) regarding the scope of *DCIDA*. See RESA Comments at 2, 7-8.

Further, because the holding in *DCIDA* was limited to only ensuring there is a default service TOU option for customer-generators, Duquesne Light disagrees that the Commission, pursuant to that case, must design a “one-size fits all” default service TOU offering, especially in

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<sup>1</sup> See *Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period June 1, 2017 to May 31, 2021*, Docket No. P-2016-2543140 (Final Order entered Dec. 22, 2016).

light of the fact that Act 129 specifically allows multiple default service TOU and real-time price plans. *See* 66 Pa. C.S. § 2807(f)(5); *see also* Duquesne Light Comments at 3. Accordingly, the Company proposed that if anything, the draft TOU program contained in the December 2 Secretarial Letter should be considered guidance, with default service providers free to propose other TOU plans. *See* Duquesne Light Comments at 2, 9. To that end, Duquesne Light agrees with the Comments of RESA, PECO, and First Energy when they state that there is no need for a wholesale revising of existing EDC default service TOU programs, some of which contract with EGSs, but rather the proposal should be a model – not a mandate. *See* RESA Comments at 2, PECO Comments at 2, First Energy Comments at 3.

Assuming that the Commission seeks to review and refine its draft TOU program, the Company outlined a number of questions that should be addressed prior to any model becoming permanent. Since these questions were included in Duquesne Light’s Comments, there is no need to reproduce them here. *See* Duquesne Light Comments at 8. Where the Company was silent, however, was regarding the ability of Duquesne Light customer assistance program (“CAP”) participants to participate in TOU default service offerings.

In Comments, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) spent a great deal of time addressing CAP customer participation in PPL Electric Utilities Corporations’ (“PPL”) TOU programs. *See generally* CAUSE Comments. Specifically, in the December 2 Secretarial Letter, the Commission suggested the following limitation for any TOU default service program: “Any existing Commission-approved limitation on customer shopping shall apply to this TOU product option as shall all consumer protections contained in the Commission’s regulations.” December 2 Secretarial Letter at 3. Consistent with this direction, CAUSE-PA, an active participant in the PPL DSP III case (Docket No. P-2016-

2526627), sought to ensure that any limitations that were previously approved for CAP customers as part of that default service plan remain in place no matter the outcome of this proceeding. *See* CAUSE-PA Comments at 5. Similarly, upon noting that PPL's current TOU program does not allow for CAP customer participation, PPL supports continuation of this restriction. *See* PPL Comments at 11.

Duquesne Light agrees that shopping limitations contained in approved default service plans should remain untouched and seeks to ensure that the Company's CAP customers not be included in any TOU program that is directed as a result of this proceeding. The Company's most recent approved default service plan was a product of settlement, which contained the following limitation on CAP customer shopping:

**C. CAP SHOPPING**

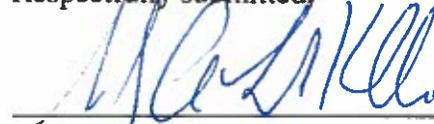
24. CAP shopping shall be postponed until June 1, 2021, the commencement of DSP IX.
25. Duquesne Light will conduct a CAP shopping collaborative with parties in the fall of 2018 and file for approval of a CAP shopping program within its DSP IX filing to become effective June 1, 2021, provided that other EDCs CAP shopping programs have been approved by the Commission and have been successfully implemented.

The Administrative Law Judge recommended approval of the settlement, without modification, and on December 22, 2016, the Commission, by a vote of 3-2, approved the Recommended Decision. Chairman Brown and Commissioner Sweet dissented, notably regarding the plan's purported lack of long term contracts, not for the CAP customer shopping limitation reproduced above. Accordingly, as part of this proceeding, Duquesne Light seeks to ensure that this currently existing default service shopping limitation remains in place for the duration of its recently approved default service plan.

## CONCLUSION

Duquesne Light appreciates the opportunity to provide further comments in this proceeding and respectfully requests the Commission to consider the suggestions and clarifications in these Reply Comments prior to finalizing the proposed draft TOU design.

Respectfully submitted,



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DATE: January 31, 2017