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April 8, 2020

Via Electronic Filing

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

**Re: Duquesne Light Company – Default Service Plan VIII – Petition for Modification
Docket No. P-2016-2543140**

Dear Secretary Chiavetta:

Enclosed for filing, please find an original copy of Duquesne Light Company's ("Duquesne Light" or the "Company") *Petition for Approval to Modify the Procurement Schedule for its Default Service Plan for the Period June 1, 2017, through May 31, 2021* ("Petition") and supporting Exhibits. The Petition is filed pursuant to Section 5.41 of the Pennsylvania Public Utility Commission's ("Commission") Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.41.

By this Petition, the Company requests Commission approval to modify its upcoming September 2020 procurement of certain tranches of Residential and Small Commercial & Industrial ("C&I") default supply contracts, in recognition of an ongoing proceeding at the Federal Energy Regulatory Commission ("FERC") concerning PJM Interconnection, Inc.'s ("PJM") Base Residual Auction ("BRA") for capacity (FERC Docket Nos. EL16-49 *et. al.*). Specifically, the terms of the twenty-four (24)-month Fixed Price Full Requirements ("FPFR") supply contracts scheduled for procurement in September 2020 would extend into the 2022/2023 PJM planning year, for which the capacity priced has not yet been established. The Company therefore proposes to shorten the terms of these to-be-procured FPFR supply contracts from 24 months to 12 months.

The Company respectfully requests that the Commission grant the modification requested herein to become effective no later than July 16, 2020.



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

Respectfully Submitted,

A handwritten signature in blue ink, which appears to read "Michael Zimmerman".

Michael Zimmerman
Senior Counsel, Regulatory

Enclosure
Cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

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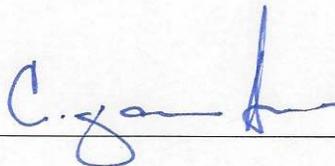
Date: April 8, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for Approval :
To Modify The Procurement Schedule for its : Docket No. P-2016-2543140
Default Service Plan for the Period :
June 1, 2017, through May 31, 2021 :

VERIFICATION

I, C. James Davis, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief, and 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 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



Dated: April 8, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for Approval :
To Modify The Procurement Schedule for its : Docket No. P-2016-2543140
Default Service Plan for the Period :
June 1, 2017, through May 31, 2021 :

**PETITION OF DUQUESNE LIGHT COMPANY
FOR APPROVAL TO MODIFY THE PROCUREMENT SCHEDULE
FOR ITS DEFAULT SERVICE PLAN
FOR THE PERIOD JUNE 1, 2017, THROUGH MAY 31, 2021**

I. INTRODUCTION

Duquesne Light Company (“Duquesne Light” or “Company”) hereby submits this Petition for Approval to Modify the Procurement Schedule for its Default Service Plan for the Period June 1, 2017, through May 31, 2021 (“Petition”) pursuant to Section 5.41 of the Pennsylvania Public Utility Commission’s (“Commission”) Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.41. The Default Service Plan for the Period June 1, 2017, through May 31, 2021 (“DSP VIII”) was approved by the Commission on December 22, 2016, *Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period June 1, 2017, through May 31, 2021*, Docket No. P-2016-2543140 (Order Entered December 22, 2016).

By this Petition, the Company requests Commission approval to modify its upcoming September 2020 procurement of certain tranches of Residential and Small Commercial & Industrial (“C&I”) default supply contracts, in recognition of an ongoing proceeding at the Federal Energy Regulatory Commission (“FERC”) concerning PJM Interconnection, Inc.’s (“PJM”) Base Residual Auction (“BRA”) for capacity (FERC Docket Nos. EL16-49 *et. al.*). As discussed further

herein, that FERC proceeding has delayed the establishment of a capacity price for the delivery period beginning June 1, 2022. The market price for capacity will therefore not be known for the full contractual supply period for certain fixed-price full requirements (“FPFR”) supply contracts¹ that Duquesne Light is to procure in September of 2020 under DSP VIII. Specifically, the twenty-four (24)-month FPFR supply contracts scheduled for procurement in September 2020 would extend into the 2022/2023 unpriced capacity period.

The Company therefore proposes to shorten the terms of these FPFR supply contracts from 24 months to 12 months. Under the Company’s proposal, the first FPFR supply contract extending into the 2022/2023 delivery period would not be procured until March of 2021. This interim solution is intended to allow additional time for the 2022/2023 capacity price (and subsequent capacity prices) to be established, or in the alternative, for the development and implementation of a more comprehensive approach with respect to long-term uncertainty in the PJM capacity markets.

Duquesne Light respectfully requests that the Commission approve this Petition without modification, and amend its prior Orders approving the Company’s DSP VIII accordingly. In order to provide prospective wholesale suppliers sufficient time to incorporate the auction changes proposed herein, the Company respectfully requests that the Commission render a determination on this Petition no later than its July 16, 2020, public meeting date. In support of this Petition, Duquesne Light states as follows:

II. BACKGROUND

1. Duquesne Light Company is a public utility and electric distribution company (“EDC”) as defined in Sections 102 and 2803 of the Public Utility Code, 66 Pa.C.S. §§ 102, 2803.

¹ “Full requirements” supply contracts include all products and services that constitute a given tranche of default supply, including energy, ancillary services, alternative energy credits, and – relevant to the instant petition – capacity.

Duquesne Light provides electric supply service to approximately 600,000 customers in its certified service territory, which includes portions of the City of Pittsburgh and Allegheny and Beaver Counties of Pennsylvania.

2. The name and address of Duquesne Light's attorneys for purposes of this filing are as follows:

Michael Zimmerman (Pa. I.D. 323715)
Emily Farah (Pa. I.D. 322559)
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Counsel consent to electronic service of any documents associated with this Petition.

3. Enclosed with this Petition are:

- Exhibit A, a graphic depicting the durations and load share of the Company's current laddered FPFRR supply contracts for Residential and Small C&I customers under DSP VIII; and
- Exhibit B, a graphic depicting the durations and load share of the Company's proposed upcoming laddered FPFRR supply contracts for Residential and Small C&I customers.

4. Chapter 28, Section 2807(e) of the Public Utility Code (Code), 66 Pa. C.S. § 2807(e), provides the requirements of a default service plan. Chapter 28 requires the default service provider to follow a Commission-approved competitive procurement plan that includes auctions, requests for proposal, and/or bilateral agreements, as well as a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts designed to ensure adequate and

reliable service at the least cost to customers over time. 66 Pa. C.S. § 2807(e). The Commission provides additional guidance regarding these requirements in its Order entered October 4, 2011, in *Default Service and Retail Electric Markets*, Docket No. L-2009-2095604 (*Second Default Service Rulemaking Order*).

5. On May 2, 2016, the Company filed its *Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period June 1, 2017, through May 31, 2021*, at Docket No. P-2016-2543140 (“DSP VIII Petition”).

6. On September 23, 2016, the Company filed a *Joint Petition for Approval of Non-Unanimous Settlement* (“Settlement”) resolving all issues among the Joint Petitioners.²

7. On November 18, 2016, Administrative Law Judge Conrad Johnson issued a Recommended Decision recommending approval of the Settlement in its entirety without modification.

8. On December 22, 2016, the Commission entered an Order accepting ALJ Johnson’s Recommended Decision and approving the Settlement in its entirety without modification.

9. In relevant part, the Settlement approves the Company’s proposal to procure default supply for Residential and Small C&I³ customers through a combination of laddered twelve (12) and twenty-four (24) month FPFR supply contracts. Settlement ¶¶15-16; DSP VIII Petition ¶41. The Company conducts Requests for Proposals (RFPs) for these FPFR supply contracts in September and March of each year, for FPFR supply contracts to commence the following

² Joint Petitioners comprised the Company, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”), and the Retail Energy Supply Association (“RESA”). Exelon Generation Company, LLC (“ExGen”) and NextEra Energy Power Marketing, LLC (“NextEra”) did not oppose the settlement. One party, Noble Americas Energy Solutions, LLC (“Noble”) opposed aspects of the Settlement.

³ Small C&I customers include non-residential customers with average monthly peak demands less than 25kW.

December 1 and June 1, respectively.⁴ A graphic depicting the durations and load share of these laddered FPFR supply contracts is attached as Exhibit A.

10. On March 21, 2016, a group of wholesale suppliers filed an action at the FERC complaining of alleged state subsidization of certain capacity resources, and the effects on wholesale market capacity prices. *See Complaint of Calpine Corporation, et. al.*, FERC Docket No. EL16-49 (“Calpine Proceeding”).⁵

11. On July 25, 2019, the FERC entered an Order in the Calpine Proceeding ordering PJM to suspend the scheduled BRA for the 2022/2023 delivery period.

12. On December 19, 2019, the FERC issued an Order that, *inter alia*, expanded PJM’s Minimum Offer Price Rule (“MOPR”) to all state-subsidized resources (“MOPR-Ex Order”). FERC instructed PJM to make a compliance filing implementing the MOPR-Ex Order.

13. Several parties to the Calpine Proceeding have filed Requests for Clarification and/or Reconsideration of the MOPR-Ex Order. Those actions remain pending as of the date of this Petition.

14. On March 18, 2020, PJM filed a proposed compliance filing to implement the MOPR-Ex Order (“PJM Compliance Filing”).⁶ *Inter alia*, the PJM Compliance Filing proposes a process for identifying resources subject to the MOPR-Ex, and how the MOPR-Ex would be applied.

⁴ Under DSP VIII, default supply for Medium C&I – i.e., nonresidential customers with average monthly peak demands greater than or equal to 25kW and less than 200kW – is procured through three-month FPFR supply contracts. Default supply for Large C&I customers – i.e., nonresidential customers with average monthly peak demands of 200kW and above – is procured through Duquesne Light’s Hourly Priced Service (“HPS”).

⁵ Litigation in that proceeding ensued and remains ongoing. An exhaustive procedural history is omitted in the interest of brevity.

⁶ *Compliance Filing Concerning the Minimum Offer Price Rule, Request for Waiver of RPM Auction Deadlines and Request for an Extended Comment Period of At Least 35 Days.*

15. The PJM Compliance Filing also proposes to compress PJM’s pre-auction timetable for upcoming BRAs, including the 2022/2023 BRA through the 2025/2026 BRA, from eight-and-a-half to six-and-a-half months. This timetable would begin to run upon receiving FERC action on the PJM Compliance Filing. PJM explains:

The [MOPR-Ex] Order outlines the key elements of the just and reasonable replacement rate. Given the complexity of PJM’s capacity auction rules however — PJM’s October 2018 pro forma Tariff revisions on a proposed replacement rate, for example, ran to over 30 pages — and the many details of the replacement rate of necessity left to be addressed by this compliance filing, resuming the capacity auctions again requires a balance between “the importance of sending price signals sufficiently in advance of delivery to allow for resource investment decisions;” and clearly “establish[ing] a replacement rate [to] provide greater certainty to the market.”

Accordingly, PJM urges that it not be required to conduct the next BRA until the Commission has acted on this compliance filing and approved the operative Tariff language that will govern that auction. Capacity Market Sellers should know before they make concrete auction preparations, for example, the specific definition of a State Subsidy, the details of available exemptions, the Net CONE and ACR screening values for the various resource categories, and the parameters of an acceptable unit-specific exception showing—just to name a few. Therefore, PJM proposes that the date for the next BRA Auction be tied to the date of the Commission’s order on this compliance filing.

Specifically, PJM proposes to complete all pre-auction activities and open the BRA for the 2022/2023 Delivery Year within six and a half months after the date of the Commission’s acceptance of PJM’s compliance filing.⁷

16. As of the date of filing of this Petition, the FERC has not acted on the PJM Compliance Filing, and no date for the 2022/2023 BRA has been established. Therefore, even under PJM’s proposed compressed timetable, it is likely that the 2022/2023 BRA will not be conducted until October 2020 at the earliest.

⁷ PJM Compliance Filing pp. 83-84 (internal citations omitted).

III. PROPOSED CHANGE TO DSP VIII

17. As indicated above, the Company requests Commission approval to truncate, from 24 months to 12 months, the durations of those Residential and Small C&I FPFR supply contracts to be procured in September 2020 that would otherwise extend into an unpriced capacity period. A graphic depicting this proposed change is attached as Exhibit B. The Company will address procurement of the “out year” of the applicable default supply (i.e., that portion of default supply for the period from December 1, 2021 through November 30, 2022, which would otherwise be procured through the September 2020 RFPs) as part of its upcoming DSP IX proposal.

18. In the event that a capacity price is established for the 2022/2023 delivery period by September 1, 2020, such that prospective wholesale suppliers could reasonably incorporate such capacity price into their September 2020 bids for the FPFR supply contracts, the Company would not truncate the 24-month FPFR supply contracts, and would instead procure the 24-month contracts as usual.

19. This proposed change would apply only to the Company’s scheduled September 2020 RFP for Residential and Small C&I default supply. It would not apply to any subsequent RFPs or RFPs for default supply for other customer classes.

20. This proposed change would not necessitate any modifications to the Company’s Supplier Master Agreements (SMAs), the form of which was approved by the Commission as part of the DSP VIII Settlement, with current or prospective wholesale suppliers. The 12-month duration of the FPFR supply contracts proposed herein would simply be reflected in the Transaction Confirmation memorializing the corresponding bid awards.⁸

⁸ The Transaction Confirmation form is included as Appendix E, Exhibit 1 to the Company’s SMA.

21. The purpose of this proposal is to exclude the 2022/2023 unpriced capacity period from those FPCR supply contracts to be procured in September 2020, for the reasons discussed further herein. The Company regards this proposal as an interim solution. To the extent the present uncertainty in the PJM capacity markets extends beyond September 2020, a more permanent approach may be required to address the potential impacts on the Company's subsequent default supply RFPs, the next of which will occur in March of 2021.

22. This proposed change is therefore designed to afford all stakeholders a period of time, during which the Company intends to develop and (if necessary) propose an approach for addressing unpriced capacity periods in subsequent default supply RFPs. Moreover, this additional period of time provides an opportunity for FERC to reschedule the BRAs, such that an alternate approach may be rendered unnecessary.

23. This proposed change is reasonable because it represents the simplest and least-disruptive available means of ensuring that the Company's September 2020 RFPs do not include any unpriced capacity period.

24. Unpriced capacity periods should be excluded from the Company's September RFPs because, if otherwise included, they may diminish those RFPs' likelihood of success and/or drive up bidders' risk premiums, yielding higher final default supply prices. Because the Company passes through all default supply costs, either of these results would ultimately be to the detriment of Duquesne Light's default supply customers.

25. The inclusion of an unpriced capacity period may preclude some prospective wholesale suppliers from bidding on the affected supply tranches. Some companies' risk management policies prohibit participation in an auction for a product that lacks complete pricing

information. The 2022/2023 unpriced capacity period therefore may effect a “hard stop” that renders some suppliers unable to bid on the affected default supply contracts.

26. Moreover, those wholesale suppliers who are able to bid on a supply tranche that includes an unpriced capacity period may need to incorporate elevated price premiums to account for the increased cost risk. The inclusion of an unpriced capacity period injects an additional element of cost uncertainty. Those wholesale suppliers that bid on an affected product are therefore likely to include a risk premium in their bids to account for this uncertainty. This incremental cost would be passed on to customers.

27. Other state utility commissions in PJM have reached similar conclusions, and have taken action accordingly to eliminate unpriced capacity periods from default supply procurements. State commissions in New Jersey and Maryland are considering or have implemented Commission-imposed nonzero proxy capacity prices for the 2022-2023 delivery period, to be reconciled when the market capacity price is ultimately established.⁹ Commissions in the District of Columbia and Ohio are considering or have implemented a Commission-imposed proxy capacity price of zero dollars, also to be reconciled when the market capacity price is ultimately established.¹⁰

28. Duquesne Light is not proposing such a proxy price approach at this time, as they present more complex issues that might not be finally resolved in time for the Company’s September 2020 default supply procurement. But the Company observes that such approaches may

⁹ New Jersey Board of Public Utilities Docket No. ER19040248, *In the Matter of the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2020*, Decision and Order entered November 13, 2019, pp. 17-22; Maryland Public Service Commission Case Nos. 9064 and 9065, *Staff’s Report on the Supplemental 2019-2020 Procurement Improvement Process*, filed March 3, 2020;

¹⁰ Public Service Commission of the District of Columbia Formal Case No. 1017, *In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia*, Order No. 20227 entered September 26, 2019; Public Utilities Commission of Ohio Docket Nos. 17-2391-EL-UNC *et. al.*, *In the Matter of the Procurement of Standard Service Offer Generation for Customers of Ohio Power Company*, Staff Proposal and Recommendation issued March 13, 2020.

present useful examples to consider should the present uncertainty in PJM capacity markets continue.

29. Granting the Company's request to truncate one upcoming affected procurement would not preclude the Commission from adopting a proxy price approach in the future. The Company's proposal will allow stakeholders and the Commission additional time to consider such alternative approaches, while avoiding the inclusion of an unpriced capacity period in the Company's upcoming September 2020 default supply procurement.

30. The Company's proposal will therefore help ensure that default supply is procured at "the least cost to consumers over time," consistent with Act 129, by (1) preserving bid liquidity and (2) reducing incidence of inflated bidder risk premiums.

31. The Company's proposal will also maintain a "prudent mix" of supply contracts as required under Act 129. As Exhibit B indicates, the Company's proposed approach would preserve a mix of laddered 12-month and 24-month contracts. While the proposed change would shift a portion of the Company's default supply from 24-month to 12-month contracts, such approach is consistent with Commission precedent. For example, the Company's prior DSP VI and DSP VII relied exclusively on laddered twelve-month contracts for Residential and Small C&I default supply. The Commission considered and expressly authorized this approach in the Company's DSP VII proceeding. *See* Opinion and Order entered January 15, 2015, Docket No. P-2014-2418242, at 25-26.

IV. NOTICE AND IMPLEMENTATION

32. The Company is serving copies of this filing on the Pennsylvania Office of the Consumer Advocate, the Pennsylvania Office of the Small Business Advocate, the Commission's

Bureau of Investigations and Enforcement, and all other parties of record in the Company's DSP VIII proceeding. The Company is also posting a copy of this filing to the Procurement page on its website.¹¹

33. Subject to Commission approval of this Petition, the Company will also notify current and prospective wholesale suppliers of the modified procurement terms in July 2020, when it plans to begin pre-RFP activities for the September 2020 procurement.

V. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission approve the requested modifications to its DSP VIII, to become effective July 16, 2020, as set forth in this Petition.

Respectfully submitted,



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DATE: April 8, 2020

¹¹ <https://www.duquesnelight.com/service-reliability/service-map/rates/tariff-resources/procurement>.

Exhibit A

Exhibit B

