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March 1, 2021

VIA ELECTRONIC FILING

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

**Re: Proposed Implementation of Act 114 of 2020
Docket No. M-2020-3023323**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Comments for filing in the above referenced proceeding.

If you have any questions regarding the information contained in this filing, please feel free to contact me or Chris Johnson at 412-393-6496 or cjohnson@duqlight.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "LBQ", is positioned below the word "Sincerely,".

Lindsay A. Baxter
Manager, State Regulatory Strategy

Enclosure
Cc (w/ enc.):
Aspassia V. Staevska, astaevska@pa.gov
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

:
Proposed Implementation of Act 114 of 2020 : Docket No. M-2020-3023323
:

**COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. INTRODUCTION

At the January 14, 2021 Public Meeting of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), a *Tentative Implementation Order* regarding Act 114 of 2020 was adopted. This order outlines the Commission’s proposed implementation of the relevant sections of Act 114 of 2020, signed into law by Governor Wolf December 23, 2020. The Act amends Fiscal Code, 72 P.S. §§ 1 et seq., establishing changes to the Alternative Energy Portfolio Standards (“AEPS”) Act, 73 P.S. §§ 1648.1 et seq. Specifically, Sections 10 and 14 of Act 114 are relevant to the Commission’s administrative duties in respect to the AEPS Act.

Section 10 of Act 114 amends the definition of a customer-generator under the AEPS Act 73 P.S. § 1648.2 by adding net-metered generation systems owned, operated, or supporting the Department of Military and Veterans Affairs (“DMVA”). Prior to adoption of Act 114, the existing AEPS Act limited the size of net-metered installations to not greater than 50 kilowatts (kW) for residential installations and not greater than 3,000 kilowatts for commercial customer locations. Customer-generators greater than 3,000 kW but not more than 5,000 kW are also eligible for net metering if the system is available to operate in parallel with the grid during grid emergencies, as discuss in further detail below. Act 114 of 2020, in expanding the definition of

customer-generator, sets an upper limit for DMVA projects at a size that results in annual generation not to exceed annual usage.

Additionally, Section 14 of Act 114 of 2020 amends the AEPS Act to establish a geographic boundary for qualifying Tier II credits. Prior to this change, any Tier II generator located within the PJM Interconnection, the regional transmission organization to which Pennsylvania belongs, was eligible to qualify under the Pennsylvania AEPS. Under the changes made by Act 114, only Tier II systems located within the geographical boundaries of Pennsylvania shall be eligible to provide Alternative Energy Credits (“AECs”) for compliance with the AEPS.

Duquesne Light Company (“Duquesne Light” or “Company”) is a public utility as the term is defined under Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, and is certificated by the Commission to provide electric distribution service in portions of Allegheny County and Beaver County in Pennsylvania. Duquesne Light provides electric service to approximately 604,000 customers in and around the City of Pittsburgh. As an electric distribution company (“EDC”), Duquesne Light is subject to this policy proceeding.

Notice of the *Tentative Implementation Order* was published in the *Pennsylvania Bulletin* on January 30, 2021, *51 Pa.B. 667*. This notice provides a period of thirty days for public comment. Pursuant to the published schedule, Duquesne Light hereby submits these comments for consideration.

II. COMMENTS

In general, the *Tentative Implementation Order* provides adequate guidance as to how entities subject to the AEPS, including EDCs, shall comply with the changes made by Act 114 of

2020. Duquesne Light has identified three areas for which it requests additional clarification, as follows:

- a. Applicability of 52 Pa. Code § 75.16 to DMVA projects above 3MW;
- b. The labeling of qualified Tier II credits; and
- c. The treatment of banked credits.

Each of these points is discussed in further detail below.

a) Clarifying applicability of 52 Pa. Code § 75.16 to DMVA projects above 3MW.

The Commission should clarify whether net metered DMVA projects will be subject to large customer-generator requirements at 52 Pa. Code § 75.16. Consistent with the AEPS, § 75.16(b) provides that customer-generator projects greater than 3,000 kW up to 5,000 kW may be eligible for net metering if the customer-generator makes the system available to operate in parallel with the grid during grid emergencies, as follows:

- The alternative energy system is able to provide the emergency support consistent with the RTO tariff or agreement.
- The alternative energy system is able to increase and decrease generation delivered to the distribution system in parallel with the EDC's operation of the distribution system during the grid emergency.

The *Tentative Implementation Order* is silent on whether Act 114 would exempt DMVA projects from § 75.16. Absent further clarification from the Commission, the Company would construe this provision to require DMVA net-metered projects over 3,000 kW in size to comply with the above requirements of Chapter 75. In effect, this may bar resources such as solar that, absent battery storage, are not dispatchable, from being installed at DMVA sites with project size greater than 3,000 kW. Additionally, it is unclear whether a DMVA project

greater than 5,000 kW must comply with these additional requirements, as Act 114 does not put an upper size limit on DMVA projects, but Chapter 75 specifies these additional requirements apply up to 5,000 kW.

Duquesne Light does not have a recommendation on this matter but rather requests clarification from the PUC in its final implementation order to ensure it treats DMVA net metering applications appropriately.

b) The labeling of qualified Tier II credits.

Duquesne Light currently sources AECs as part of bundled contracts with its default service supply providers in order to meet its AEPS requirements. It does not independently enter into contracts to procure AECs separate from other default supply components. The Company seeks greater clarity from the Commission on how Tier II credits will be labeled, to ensure it can verify that credits provided by default service suppliers meet the new requirements imposed by Act 114.

To further explore this topic, Duquesne Light looked to the *Final Implementation Order* for Act 40 of 2017. Act 40 amended the AEPS to require all solar credits to be generated in Pennsylvania. Solar credits generated outside of Pennsylvania continue to qualify as Tier I AECs, but no longer qualify for the solar carve-out of the AEPS. Pursuant to this change, the PUC, in its *Tentative Implementation Order*, proposed a labeling system to designate in PJM's General Attribute Tracking System ("PJM-GATS") which solar credits were produced in-state.¹ The *Final Implementation Order* affirmed this labeling system, under which Tier I Solar AECs will assign a certification number in the format of PA-NNNNNN-SUN-I, and

¹ Implementation of Act 40 of 2017 Tentative Implementation Order, Entered December 21, 2017, Docket No. M-2017-2631527.

Tier I AECs that do not qualify for the solar carve-out will be labeled PA-NNNNNN-NSTI-I.²

The Company proposes that a unique label be established for in-state Tier II AECs, similar to the labeling created to designate in-state solar resources. Absent such a labeling designation, entities subject to the AEPS will be challenged to verify that Tier II credits have originated in Pennsylvania. Should the Commission determine that a new labeling designation is not required, Duquesne Light requests clarification and guidance as to how it should verify credits provided by default service supply providers in order to comply with the changes made by Act 114 of 2020.

c) The treatment of banked credits.

As described above, Duquesne Light currently sources AECs to meet its obligations under the AEPS Act through bundled contracts with its default service supply providers. The Company does not directly procure AECs, nor does it bank credits. However, to the extent that AECs banked by a supplier may become ineligible under Pennsylvania's AEPS Act, these stranded costs may be passed on to Duquesne Light customers in the form of higher retail supply charges. Thus the Company has an interest in how banked credits are treated under the final order.

The *Tentative Implementation Order* is limited in its discussion of banked credits, only explicitly stating that out-of-state Tier II credits generated under an existing contract, entered into prior to November 23, 2020, shall be eligible for AEPS compliance until the end date of the contract. The question remains as to how to treat a Tier II credit that has been

² Implementation of Act 40 of 2017 Final Implementation Order, Entered May 3, 2018, Docket No. M-2017-2631527.

banked and has not yet expired, but for which the contract under which it was procured has ended.

Similar to the above point regarding labeling, the Company looked to how banked credits were treated in the *Final Implementation Order* for Act 40 of 2017, related to out-of-state solar credits. In that *Final Order*, the Commission confirmed that nothing in Act 40 changed the existing banking provision in the AEPS, which “permits EDCs and EGSs to bank, or place in reserve, credits produced in one reporting year for compliance in the next two reporting years.”³ The Company recommends that the Commission, in its final order on this topic, maintain its position that a credit retains the tier attribute assigned to it at the time of generation until it expires. Doing so allows EGSs to use any credits that were appropriately secured and put into reserve prior to the legislative changes imposed by Act 114. This practice will limit the costs of implementation and is in the best interest of customers.

³ See 2, at 29.

III. CONCLUSION

Duquesne Light believes clarity on these three points is critical. Entities subject to the AEPS, including EDCs, need certainty in order to comply with statutory and regulatory requirements. With these issues addressed, the Final Implementation Order will provide clear guidance for successful implementation of Act 114 of 2020. The Company is appreciative of the opportunity to provide comment in this proceeding.

Respectfully submitted,



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