
Anthony D. Kanagy
Principal

akanagy@postschell.com
717-612-6034 Direct
File #: 179682

October 4, 2022

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Petition of Duquesne Light Company for Emergency Approval of Contingency
Modification to Its Default Service Plan
Docket No. P-2020-3019522; ~~Docket No. P-2022-~~**

Dear Secretary Chiavetta:

Attached for filing is the Petition of Duquesne Light Company (“Duquesne Light”) for Emergency Approval of Contingency Modification to Its Default Service Plan in the above-referenced proceeding. Due to the short time period for obtaining default supply prior to December 1, 2022, Duquesne Light requests that the parties file any responsive pleadings by October 14, 2022, and that the Pennsylvania Public Utility Commission enter an Order with respect to this Petition at its Public Meeting scheduled for November 10, 2022, or earlier if possible. Copies will be provided per the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/kl
Attachment

Rosemary Chiavetta, Secretary
October 4, 2022
Page 2

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).

VIA E-MAIL ONLY

Scott Granger, Esquire
Bureau of Investigation & Enforcement
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265
sgranger@pa.gov

David Evrard, Esquire
Aron J. Beatty, Esquire
Lauren R. Myers, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
devrard@paoca.org
abeatty@paoca.org
lmyers@paoca.org

Sharon E. Webb, Esquire
Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov
sgray@pa.gov

Elizabeth Marx, Esquire
John Sweet, Esquire
Ria Pereira, Esquire
118 Locust Street
Harrisburg, PA 17101
emarxpulp@palegalaid.net
pulp@palegalaid.net
Counsel for Intervenor CAUSE-PA

John F. Lushis, Jr., Esquire
Norris McLaughlin P.A.
515 West Hamilton Street, Suite 502
Allentown, PA 18101
jlushis@norris-law.com
Counsel for Intervenor Calpine Retail

James H. Laskey, Esquire
Norris McLaughlin P.A.
400 Crossing Boulevard, 8th Floor
Bridgewater Township, NJ 08807
jlasky@norris-law.com
Counsel for Intervenor Calpine Retail

Todd S. Stewart, Esquire
Hawke, McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com
Counsel for Intervenor EGS Parties

Gregory L. Peterson, Esquire
Phillips Lytle LLP
201 West Third Street, Suite 205
Jamestown, NY 14701-4907
gpeterson@phillipslytle.com
Counsel for Intervenor Statewise

Kevin C. Blake, Esquire
Phillips Lytle LLP
125 Main Street
Buffalo, NY 14203
kblake@phillipslytle.com
Counsel for Intervenor Statewise

Thomas F. Puchner, Esquire
Phillips Lytle LLP
Omni Plaza
30 South Pearl Street
Albany, NY 12207-1537
tpuchner@phillipslytle.com
Counsel for Intervenor Statewise

James M. Van Nostrand, Esquire
Keyes & Fox LLP
275 Orchard Drive
Pittsburgh, PA 15228
jvannostrand@keyesfox.com
Counsel for Intervenor ChargePoint, Inc.

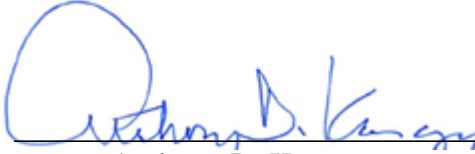
Andrew J. Karas, Esquire
Emily A. Collins, Esquire
Fair Shake Environmental Legal Services
647 East Market Street
Akron, OH 44304
akaras@fairshake-els.org
ecollins@fairshake-els.org
Counsel for Intervenor NRDC

Date: October 4, 2022

Charles E. Thomas, Jr., Esquire
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
cthomasjr@tntlawfirm.com
Counsel for Intervenor MAREC

Bruce Burcat, Esquire
P.O. Box 385
Camden, DE 19934
Marec.org@gmail.com
Counsel for Intervenor MAREC

Mark Szybist, Esquire
Natural Resources Defense Council
1152 15th Street, NW
Suite 300
Washington, D.C. 20005
mszybist@nrdc.org
Counsel for Intervenor NRDC



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :
for Emergency Approval to Modify its : Docket Nos. P-2020-3019522
Default Service Plan :

**PETITION OF DUQUESNE LIGHT COMPANY
FOR EMERGENCY APPROVAL OF CONTINGENCY
MODIFICATION TO ITS DEFAULT SERVICE PLAN**

I. INTRODUCTION

Duquesne Light Company (“Duquesne Light” or “Company”) hereby submits this Petition for Emergency Approval of Contingency Modifications to its Default Service Plan (“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 and pursuant to the procedures approved by the Pennsylvania Public Utility Commission (“Commission”) under the Company’s Default Service Plan for the Period June 1, 2021, through May 31, 2025 (“DSP IX”), which was approved by the Commission on January 14, 2021, *Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period June 1, 2021, through May 31, 2025*, Docket No. P-2020-3019522 (Order Entered January 14, 2021). By this Petition, the Company requests approval to implement an Emergency Contingency Plan for the procurement of one tranche which constitutes 25% of default electric supply for the Medium Commercial and Industrial (“C&I”) rate class. The Medium C&I class consists of customers with monthly metered demands equal to or greater than 25 kW and less than 200 kW.

Duquesne Light recently conducted a solicitation for 4 tranches of supply for Medium C&I customers for the period December 1, 2022 through February 28, 2023. This is the entirety of the Medium C&I default service load for this period. Only 3 of the 4 tranches were filled, and the Commission directed the Company to implement its Contingency plan for the unfilled tranche (“Unsubscribed Tranche”). Under the Company’s Commission-approved contingency plan, any unfilled tranche must be supplied through the spot market until the Commission approves an alternative supply arrangement. Duquesne Light is concerned about the volatility of the spot market at this time and believes that obtaining supply through the spot market should only be undertaken if other options are not successful. Therefore, the Company seeks Commission approval of this Emergency Contingency plan, which provides for 3 options as follows:

- (i) Duquesne Light would implement a Step-Up offer whereby CRA, the Company’s independent third-party Auction Manager, would offer the two wholesale suppliers that won the 3 Medium C&I tranches the opportunity to accept the unsubscribed tranche at the auction clearing price. If both wholesale suppliers are willing to Step-Up, then the Auction Manager would allocate a pro-rata share of the unsubscribed tranche to each supplier based upon the percentage of load that each supplier won in the initial auction that was conducted on September 19, 2022.
- (ii) If neither wholesale supplier accepts the Step-Up offer, Duquesne Light would modify the unsubscribed 3-month tranche to a 12-month tranche and CRA would conduct a sealed bid auction for the 12-month product.¹

¹ If the Company procures a 12-month product, it will reduce the number of 3-month tranches from 4 to 3 for the 12-month period.

- (iii) If neither of the above options succeed, it will not be feasible to pursue another option, and therefore, the Company would fill the 3-month unsubscribed tranche from the spot market.

Duquesne Light respectfully requests that the Commission approve this Petition without modification, and amend its prior Orders approving the Company's DSP IX accordingly, no later than the Commission's November 10, 2022, public meeting date, so that the Company can implement the Emergency Contingency Plan prior to the commencement of the default supply delivery period on December 1, 2022. Accordingly, the Company respectfully requests Commission approval of this Petition on an expedited basis, and further requests that the Commission direct that any pleadings responsive to this Petition be filed within ten (10) days, or by October 14, 2022. The Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), and the Natural Resources Defense Council ("NRDC"), Signatory Parties to the *Joint Petition for Approval of Settlement* filed October 13, 2020 at Docket No. P-2020-3019522,² which, *inter alia*, established the Company's Medium C&I procurement plan for DSP IX, have indicated that they do not oppose this Petition.

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.

² The only other Signatory Party to the October 13, 2020, Joint Petition is the Coalition for Affordably Utility Service of Pennsylvania's ("CAUSE-PA"). The Company has not heard from CAUSE-PA with respect to its position with this filing. In addition, the Company has not reached out to the non-signatory parties at this time given the abbreviated time period for filing the Petition. However, the Company is serving a copy of this filing on all parties in the DSP IX proceeding.

Duquesne Light provides electric supply service to approximately 600,000 customers in its certificated 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)
Duquesne Light Company
411 Seventh Avenue
MD: 15-7
Pittsburgh, PA 15219
Phone: (412) 393-6268
Email: mzimmerman@duqlight.com

Michael W. Gang (ID # 25670)
Anthony D. Kanagy (ID #85522)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: (717) 731-1970
Fax: (717) 731-1985
E-mail: mgang@postschell.com
E-mail: akanagy@postschell.com

Counsel consent to electronic service of any documents associated with this Petition.

3. 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*”).

4. The Company’s current default service plan, DSP IX, extends through May 31, 2025. Under DSP IX, the Company procures default supply for Medium C&I customers – i.e., nonresidential customers with average monthly peak demands greater than or equal to 25kW and less than 200kW – through three-month fixed price full requirements (“FPFR”) supply contracts.³ The Company conducts Requests for Proposals (RFPs) for these FPFR supply contracts in March, June, September, and December of each year, for FPFR supply contracts to commence the following June 1, September 1, December 1, and March 1, respectively.

5. In its DSP IX proceeding at Docket No. P-2020-3019522, the Company described its approach for addressing shortfalls in Medium C&I default supply procurements in Statement No. 2, direct testimony of John Peoples, p. 15:

Q. Does Duquesne Light have a contingency plan to obtain supply for the HPS Eligible, Medium C&I <200kW, Small C&I, and Residential & Lighting customer classes?

A. Yes. In the event the Company receives bids for less than all tranches, the Commission does not approve the results for all tranches, or a supplier defaults, the Company will provide the balance of the default supply through purchases in the PJM spot markets until such time that a different contingency plan is approved by the Commission. The Company will submit to the Commission within fifteen (15) days after any such occurrence an emergency plan to handle any default service shortfall. All costs associated with implementing the contingency plan will be included as part of the DSS described in the Section below, “Calculation of Rate.”

6. The Company’s contingency plan procedures are also set forth in Rider No. 8 of its retail tariff.

³ “Full requirements” supply contracts include all products and services that constitute a given tranche of default supply, including energy, capacity, ancillary services, and alternative energy credits.

7. On September 19, 2022, the Company completed its scheduled RFP for Medium C&I default supply for the period December 1, 2022 through February 28, 2023. The RFP sought bids for four tranches of Medium C&I default supply, each comprising 25% of Medium C&I default service load for this period. The RFP procured supply contracts for three of the four tranches, leaving the Unsubscribed Tranche.

8. On September 21, 2022, the Commission issued a Secretarial Letter at Docket No. P-2020-3019522 that, in relevant part, directed the Company to (1) disclose the results of the September 2022 RFP, including the undersubscribed Medium C&I procurement; and (2) “enact its contingency plan regarding the medium C&I customer procurement in accordance with its default service plan.”

9. On September 30, 2022, the Company filed Supplement No. 52 to its retail Tariff No. 25 (“Tariff”) to update default service supply rates, including the Medium C&I rate stated at Rider No. 8 – Default Service Supply, effective December 1, 2022.⁴ In that filing, the Company noted that the Medium C&I rate stated therein was calculated using the average price of the three Medium C&I supply tranches procured on September 19, 2022⁵ as a proxy price for the Unsubscribed Tranche. The Company further noted that to the extent future procurement(s) of Unsubscribed Tranche supply produce a different actual price, the Company will file a tariff supplement to adjust the Medium C&I rate accordingly, and will address any over- or under-recoveries as part of its applicable reconciliation statements under 66 Pa. C.S. § 1307(e).

⁴ Docket No. M-2022-3035767.

⁵ This average price is \$182.00 per MWh. *See* Non-Confidential Attachment A to Supplement No. 52, “RFP Wholesale Price.”

III. PROPOSED CHANGE TO DSP IX

10. As indicated above, the Company requests Commission approval to implement an Emergency Contingency Plan for the procurement of the Unsubscribed Tranche.

11. The Emergency Contingency Plan would apply only to the Company's procurement of the Unsubscribed Tranche of Medium C&I default supply. It would not apply to any other customer classes or the other 3 Medium C&I tranches.

12. Duquesne Light's Contingency Plan has 3 potential options designed to ensure success. These three options are as follows:

- (i) Duquesne Light would implement a Step-Up offer whereby CRA, the Company's independent third-party Auction Manager, would offer the two wholesale suppliers that won the 3 Medium C&I tranches the opportunity to accept the unsubscribed tranche at the auction clearing price.⁶ If both wholesale suppliers are willing to Step-Up, then the Auction Manager would allocate a pro-rata share of the unsubscribed tranche to each supplier based upon the percentage of load that each supplier won in the initial auction that was conducted on September 19, 2022.

⁶ The Company's Supplier Master Agreement (SMA) contemplates that the Company may make such Step-Up offers. SMA § 5.5:

5.5 Step-up Provision

The Company may ask other DS Suppliers whether they wish to assume all or part of the delivery obligations on the same terms and price contained herein, but any DS Supplier shall not be obligated to assume any such step-up requests. Any agreement to make additional supply available shall be termed a "Step-Up," and is subject to compliance with the creditworthiness provisions of Article 6 of this Agreement and the DS Supplier's load cap as per the Company's approved default service procurement plan. For the avoidance of doubt, in the event that the DS Supplier does not respond to the Company's Step-Up request within the relevant timeframe, then the DS Supplier shall be deemed to have rejected the Company's request in full.

- (ii) If neither wholesale supplier accepts the Step-Up offer, Duquesne Light would modify the unsubscribed 3-month tranche to a 12-month tranche and CRA would conduct a sealed bid auction for the 12-month product.
- (iii) If neither of the above options succeed, the Company will fill the 3-month unsubscribed tranche from the spot market.

IV. THE EMERGENCY CONTINGENCY PLAN IS IN THE PUBLIC INTEREST

13. The Company believes that implementing this Emergency Contingency Plan is the appropriate means of procuring supply for the Unsubscribed Tranche.

14. The first option of allowing the winning bidders to supply the Unsubscribed Tranche is simple, quick to implement and, if successful, will result in a price that is consistent with the winning price for the 3 tranches that were filled in the September 19, 2022 auction.

15. If these wholesale suppliers are not willing to fill the fourth tranche, then the Company believes that it is prudent to solicit a 12-month term for this tranche. To date, Duquesne Light has not experienced undersubscribed procurements of Small C&I default supply, which it procures through a combination of 12- and 24-month contracts. Additionally, more wholesale suppliers tend to participate in the Company's RFPs for Small C&I default supply than those for Medium C&I default supply, particularly in recent procurements. This experience leads the Company to believe that wholesale suppliers will be more likely to bid on a longer-term contract. A longer-term contract will also provide additional price stability for these customers. The Company notes that the Medium C&I class includes customers at 25 kW, and the Company believes that these customers would prefer more stable rates. The Company further notes that if this option is used, the default service rate for Medium C&I customers will continue to change on

a quarterly basis and 75% of the default supply for these customers will continue to be procured through three-month supply contracts until the procurement for the period commencing December 1, 2023.

16. If these two options fail, the Company will procure supply to fill the Unsubscribed Tranche through purchases in the PJM spot markets, pursuant to its DSP IX. The Company believes that such spot market purchases may result in suboptimal outcomes for customers for two reasons. First, the PJM spot market is volatile. For example, for the period May through September 2022, the Day-Ahead On-Peak Hourly locational marginal price (LMP) for the Duquesne zone produced a standard deviation of \$37.03 MWh. The range of Day-Ahead On-Peak Hourly LMP during that same period was a minimum price of \$31.59 MWh and a maximum price of \$364.69 MWh.⁷ This would yield unpredictable swings in supply prices, and could also produce substantial over- or under-collections to be refunded or recouped, as applicable, through subsequent Medium C&I rates. Second, spot market purchases are administratively burdensome to implement. If the Company procures supply from the spot market, it will be required to procure supply on a daily basis in the day-ahead market and then balance the real-time difference between the day-ahead forecast and the actual real-time load, and then will be required to perform a reconciliation to true up projections with actual costs. This process is labor intensive and would drive up the procurement costs to be recovered from customers pursuant to DSP IX.

V. NOTICE AND IMPLEMENTATION

17. 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

⁷ PJM spot market data are available through PJM's "Data Miner" tool at <https://dataminer2.pjm.com/list>.

Bureau of Investigations and Enforcement, and all other parties of record in the Company's DSP IX proceeding. The Company is also posting a copy of this filing to the Procurement page on its website.⁸

18. The Company also plans to notify current and prospective wholesale suppliers that, subject to Commission approval of this Petition, the Company intends to implement this Emergency Contingency Plan.

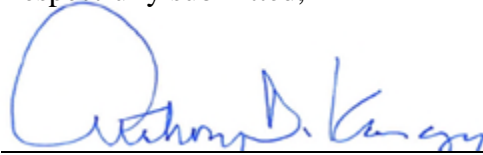
19. In order to implement the plan, the Company respectfully requests that the Commission approve this Petition at its November 10, 2022, public meeting or earlier if possible.

⁸*Duquesne Light Default Service Procurement, Duquesne Light, DUQUESNE LIGHT*, <https://www.duquesnelight.com/service-reliability/service-map/rates/tariff-resources/procurement>.

VI. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission approve the requested modifications to its DSP IX, to become effective no later than November 11, as set forth in this Petition.

Respectfully submitted,



Michael Zimmerman (Pa. I.D. 323715)
Senior Counsel, Regulatory
Duquesne Light Company
411 Seventh Avenue
MD 15-7
Pittsburgh, PA 15219
Phone: (412) 393-6268
mzimmerman@duqlight.com

Michael W. Gang (ID # 25670)
Anthony D. Kanagy (ID #85522)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: (717) 731-1970
Fax: (717) 731-1985
E-mail: mgang@postschell.com
E-mail: akanagy@postschell.com

DATE: October 4, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :
for Emergency Approval to Modify its : Docket Nos. P-2020-3019522
Default Service Plan : P-2022-_____

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: October 3, 2021