

CITIZEN POWER

Public Policy Research Education and Advocacy

October 22, 2012

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

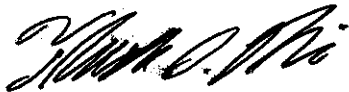
Re: Petition of Duquesne Light Company for Approval of Default Service Plan for the Period June 1, 2013 through May 31, 2015; Docket P-2012-2301664

Dear Secretary Chiavetta:

Enclosed please find Citizen Power's Reply Brief, in the above referenced proceeding.

Copies of this document have been served in accordance with the attached Certificate of Service.

Sincerely,



Theodore Robinson
Counsel for Citizen Power

Enclosures

Cc: Hon. Katrina L. Dunderdale
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for	:	
Approval of a Default Service Program and	:	Docket No. P-2012-2301664
Procurement Plan for the Period June 1,	:	
2013 through May 31, 2015	:	

REPLY BRIEF OF CITIZEN POWER, INC.

October 22, 2012

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I. PROCEDURAL HISTORY

Citizen Power, Inc. (“Citizen Power”) files this Reply Brief in the matter of the Petition of Duquesne Light Company for Approval of its Default Service Program (“Petition”). On October 5, 2012, Citizen Power filed its Main Brief in this proceeding. Duquesne Light Company; the Office of Consumer Advocate; the Office of Small Business Advocate; the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania; NextEra Energy, Constellation NewEnergy, and Exelon Generation Co.; Dominion Retail, Inc. and Interstate Gas Supply Inc.; FirstEnergy Solutions Corp.; the Retail Energy Supply Association; and Duquesne Industrial Interveners also filed Main Briefs.

II. SUMMARY OF REPLY ARGUMENT

Citizen Power addressed the Petition and the testimony of various parties in its Main Brief. In this Reply Brief, Citizen Power responds to certain arguments proposed by the Retail Energy Supply Association (“RESA”) and Duquesne Light Company (“Duquesne”).

III. REPLY ARGUMENT

A. LEGAL STANDARDS

Citizen Power avers that the legal standards related to burden of proof and default service can be found in Citizen Power’s Main Brief at 3-4.

B. DEFAULT SUPPLY PROCUREMENT ISSUES

1. Residential Procurement Issues

a. Product(s) and Product Terms

- i. RESA’s Belief That A Residential Procurement Mix That Includes 3-month Contracts Is An Excellent Transition From The Current

Procurement Mix To The Commission's Proposed Mix In 2015 Does Not Take Into Account The Consumer Experience.

On pages 17 and 18 of its Main Brief, the Retail Energy Supply Association ("RESA") states that their proposal for including 3-month contracts into the procurement mix "represents a perfect transition" from Duquesne's current default procurement to the Commission's proposed quarterly procurements for residential customers which would begin in June, 2015. However, this assessment does not take into account that a change in the default service procurement involves two distinct changes from the perspective of a default service customer. First, there is the price responsiveness of the default service, which is inversely related to the length of contract. The shorter the contracts are, the more volatile rates will be. Citizen Power believes that 12-month contracts are a much more reasonable step between the current 29-month contract and the Commission's proposed 3-month contracts. Second, and more importantly, Duquesne Light's residential default service customers are used to few adjustments to their default service price. RESA's plan to include 3-month contracts in the default service mix requires a change to the default service price every three months which would introduce a degree of volatility would be jarring to residential customers. In addition, frequent changes to the Price to Compare makes shopping more difficult. Although Citizen Power avers that the default service procurement mix would benefit from the inclusion of 2-year contracts, in our opinion 12-month contracts are far superior to 3-month contracts because introducing significant price volatility at the same time as changing the default service price at frequencies as short as allowable under statute is not in the best interest of residential customers.

ii. RESA's Theory That 3-month Contracts Are Necessary To Avoid "Boom/Bust" Cycles Is Not Supported By The Evidence.

On pages 19 to 24 of its Main Brief, RESA asserts that their proposed mix of 12 and 3-month contracts is preferable because a more market-reflective rate will “ensure that the current retail market does not fall victim to ‘boom/bust’ cycles in which the default service rate diverges from the actual current price of energy.”¹ In support of this argument, RESA has included a chart of the shopping levels for Type II non-residential customers (25kW to 600 kW) between 6/1/2004 and 4/1/2011 which RESA purports shows that more market reflective pricing eliminates boom/bust cycles.² However, this chart of non-residential customers in Maryland does not have any predictive value regarding residential customers in the Duquesne Light territory.

First of all, the sample size is not big enough. The chart shows one instance where shopping stability correlated with market reflective pricing. This result may simply be a statistical outlier. Secondly, although prices that are adjusted more frequently correlate with more stable switching numbers in the chart, there is no evidence that semi-annual or quarterly pricing is the cause of this stability. The end of the rate caps or, as suggested by FirstEnergy Solutions Corp. witness Banks, Hurricane Katrina could be responsible for variances in the shopping numbers. Third, larger non-residential customers are not representative of residential customers. Residential customers are more “sticky” and are more likely to be slow to change suppliers in response to price signals. Even if a “bust” situation happened for a period of time, it is unclear how many customers would return to default service. Fourth, the chart does not show any evidence regarding the relative merits of a 100% 12-month product and a 50% 12-month/50% 3-month product or the possibility of a “bust” cycle happening in the 2013-2014 period or the 2014-2015 period. Finally, as stated by RESA’s witness Williams in her Surrebuttal Testimony, “[i]f such a ‘boom-bust’ cycle becomes permanent, suppliers may be deterred from

¹ RESA Main Brief at 19.

² RESA Main Brief at 21.

entering the market or making significant investments that would ultimately benefit customers by delivering more innovative product and service offers.”³ Given the Commission’s suggested course is to begin 3-month procurements starting in 2015, it is very unlikely that a “boom-bust” cycle could become permanent; alleviating any long-term worries about supplier investments or the availability of offers.

b. Procurement Dates

Citizen Power does not have a reply on this issue.

c. Reserving Supply For Retail Opt-In Customer Participation

Citizen Power does not have a reply on this issue.

1. Small C&I Procurement Issues

Citizen Power does not have a reply on this issue.

2. Medium C&I Procurement Issues

Citizen Power does not have a reply on this issue.

3. Large C&I Procurement Issues

Citizen Power does not have a reply on this issue.

4. Default Supply Load CAP Issues

Citizen Power does not have a reply on this issue.

5. Procurements for Delivery Beyond May 31, 2015

Citizen Power does not have a reply on this issue.

6. Miscellaneous Procurement Issues

Citizen Power does not have a reply on this issue.

C. MARKET ENHANCEMENT PROGRAMS

1. Retail Opt-In Program

³ RESA St. 1-SR at 10.

a. Auction v. ROI Program

Citizen Power does not have a reply on this issue.

b. Term of Offer

Citizen Power does not have a reply on this issue.

c. Discount Percentage

Citizen Power does not have a reply on this issue.

d. \$50 Bonus Payment

Citizen Power does not have a reply on this issue.

e. Guaranteed Savings

Citizen Power does not have a reply on this issue.

f. Customer Participation Cap

Citizen Power does not have a reply on this issue.

g. Supplier Load Cap

Citizen Power does not have a reply on this issue.

h. Enrollment Process

Citizen Power does not have a reply on this issue.

i. Mailings and Communications

Citizen Power does not have a reply on this issue.

j. Opt-In Electric Generation Supplier Service Program Request for Proposals and Agreement Between Duquesne Light and EGSs

Citizen Power does not have a reply on this issue.

2. Standard Offer Program

a. Term of Offer

Citizen Power does not have a reply on this issue.

b. Discount Package

Citizen Power does not have a reply on this issue.

c. Guaranteed Savings

Citizen Power does not have a reply on this issue.

d. Program Start Date

Citizen Power does not have a reply on this issue.

e. Program Suspension

Citizen Power does not have a reply on this issue.

f. High Bill Callers

Citizen Power does not have a reply on this issue.

g. Choice Referral Team

Citizen Power does not have a reply on this issue.

h. Standard Offer Customer Referral Program Rules and Supplier Agreement Between Duquesne Light and EGSS

Citizen Power does not have a reply on this issue.

3. Market Enhancement Program Cost Recovery

- a. RESA's Position That Default Service Customers Should Pay For The Retail Market Enhancements ("RMEs") Because They Cause The Cost Of These Programs Is In Error.

In their Main Brief on pages 60 to 64, RESA argues that default service customers should pay for the RMEs since the reason for the RMEs is that it is difficult for EGSSs to convince "sticky" default service customers to shop, therefore denying the benefits of a competitive retail electric market to default customers. Citizen Power disagrees with this reasoning for two main reasons. First, we do not believe that default service customers who choose not to shop should be assessed the cost of being provided more shopping options. The RMEs can only benefit those

that choose to take advantage of them; any default service customer that does not opt for an RME should not be penalized or charged for that decision. In addition, to some extent the RMEs are replacing marketing costs that the EGSs would have spent to acquire customers. Since the marketing costs are paid for by the EGSs, there is no reason that the RMEs should not be. Taking RESA's position to an extreme, it could be argued that EGSs marketing costs should be subsidized by default service customers because they are the "beneficiaries" of the available offers.

Second, we agree with the Commission's position in the *Intermediate Work Plan Final Order*, that EGSs are the "prime beneficiaries" of the RME programs. Although default service customers can potentially benefit from RMEs, the amount of that benefit is dictated by the state of the current market. As acknowledged by RESA in their Main Brief, the number of EGSs actively serving residential customers in the Duquesne service area has gone from 11 in January 2011 to 34 in May of 2012.⁴ From the consumer's standpoint, there are numerous offers available. Any strengthening of the consumer marketplace as a result of RME programs could conceivably benefit consumers as increased competition drives down prices. However, the incremental benefit to shopping customers, which can be expressed as the current best offer compared to the best offer as a result of the RME programs, is likely to be small. RESA has presented no evidence that default customers or shopping customers will benefit significantly as a result of the RMEs. On the other hand, it is clear that EGSs greatly benefit from the ability to attract customers because of the RME programs without having to spend money marketing.

4. CAP Customer Participation in Market Enhancement Programs

- a. Duquesne's Updated Position That CAP Customers Benefits Should Be Fully Portable By January, 1, 2014, Should Be Modified.

⁴ RESA Main Brief at 18-19.

In their Main Brief at 64 to 66, RESA states that CAP customers should be able to participate in the RME programs and that this position is supported by the decision in the *PECO* case and the associated Motion of Commissioner Pamela A. Witmer.⁵ Although Citizen Power does not object to CAP customers' benefits being portable, we are concerned that there are sufficient protections in place to ensure that CAP customers are not harmed by RME program participation or shopping. Although we believe that education efforts aimed at low income customers, as advocated by RESA in their Main Brief at 65, are beneficial; we do not believe that education efforts alone are sufficient to protect low income customers from entering into agreements that they cannot afford.

Therefore, Citizen Power disagrees with Duquesne's position that CAP customer benefits should be portable by January, 1, 2014. Specifically, the implementation date of January 1, 2014 should be conditioned on adequate consumer protections being in place to protect low income consumers.

5. Shopping Customer Participation in Market Enhancement Programs

Citizen Power does not have a reply on this issue.

6. Small C&I Customer Participation in Market Enhancement Programs

Citizen Power does not have a reply on this issue.

7. Customer Status at the End of the Market Enhancement Product

Citizen Power does not have a reply on this issue.

8. Miscellaneous Market Enhancement Program Issues

Citizen Power does not have a reply on this issue.

D. RATE DESIGN

⁵ *Petition of PECO Energy Company for Approval of its Default Service Program II*, Docket No. P-2012-2283641, Motion of Commissioner Pamela A. Witmer (Sept. 27, 2012).

1. Reconciliation Issues

Citizen Power does not have a reply on this issue.

2. Price To Compare Calculation Date

Citizen Power does not have a reply on this issue.

3. Non-Bypassable Charge To Recover PJM Charges

Citizen Power does not have a reply on this issue.

E. TIME-OF-USE PROGRAM

Citizen Power does not have a reply on this issue.

F. SUPPLY MASTER AGREEMENT ISSUES

Citizen Power does not have a reply on this issue.

G. DATA/EGS COORDINATION ISSUES

Citizen Power does not have a reply on this issue.

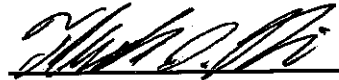
H. GENERAL MISCELLANEOUS ISSUES

Citizen Power does not have a reply on this issue.

iii. CONCLUSION

Citizen Power believes that many of the arguments put forth by RESA in support of 3-month procurements and RME program cost recovery from default service customers are incorrect and should be rejected. In addition, Citizen Power believes that Duquesne's proposal to make CAP customer benefits portable by January, 1, 2014 should be conditioned on adequate consumer protections being in place for low income customers.

Respectfully submitted,



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2013 through May 31, 2015 :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document of Citizen Power, Inc. upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons as listed below:

Dated this 22nd day of October, 2012.

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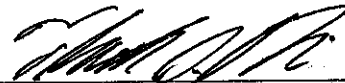
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