BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Request for Comments on Proposed
Guidelines for EGS Referral Programs

COMMENTS OF
DUQUESNE LIGHT COMPANY

Duquesne Light Company hereby submits these comments in response to the Commission staff request dated January 5, 2010.

Introduction

Since restructuring, Duquesne Light has implemented four successful default service programs which have helped to create the most competitive shopping environment in the Commonwealth. Duquesne has a history of working with EGSs to promote competition, and both EGSs and the Commission have acknowledged the successes of Duquesne with respect to Competition.[1] Additionally, Duquesne Light Company undertook a comprehensive customer education program when its rate caps expired in 2004, and continues its efforts to inform customers regarding their shopping

[1] The Commission has specifically recognized the successes of competition in Duquesne's territory. See Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2), p. 33, fn 18, Docket No. L-00040169, May 10, 2007 ("[t]he experience of Duquesne shows that retail markets can work. Duquesne's territory has the highest rate of customer choice in Pennsylvania."). EGSs have also recognized the successes of competition in Duquesne's territory. See Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2010 through May 31, 2013, Docket No. P-2009-2135500, Direct Testimony of Richard J. Hudson, RESA St. 1, p. 29 ("...Duquesne has been a success story for retail competition in many respects...."); Direct Testimony of David I. Fein, Constellation St. 1, p. 47 ("As Duquesne Light's service territory has some of the highest switching numbers in the U.S., Duquesne Light should be credited for their efforts to promote the development of retail competition.")

choices in a variety of ways, including a Customer Service Center that addresses issues and options regarding customer choice, dissemination of brochures addressing competition and other important energy issues including energy efficiency and low income assistance programs. Today, approximately 60% of the total electric load in Duquesne Light's service territory is shopping with a competitive supplier.

As a result, Duquesne disagrees with the proposed Guidelines for EGS Referral Programs and offers its specific comments below on the areas of the proposed program components of most concern.

Duquesne's customers have a choice today in who provides their electric generation, without restrictions and without additional cost. It is Duquesne's position that this EGS Referral program may ultimately do more to harm the competitive business environment than help, and that it is not necessarily in the best interest of the Residential and small C&I customers.

Duquesne Comments on Proposed Guidelines for EGS Referral Programs

1. Selection of an EGS and Enrollment.

The proposed EGS Referral Program states customers participating in a referral program shall be permitted to affirmatively choose a specific EGS, and those customers that do not express a preference will be assigned at random, on a rotating basis, to an EGS drawn from the list of participants in the program. Further, the proposed EGS Referral Program states utilities shall enroll customers into a referral program on behalf of EGSs, and may accomplish enrollment through a telephonic process implemented by their call centers.

Duquesne fully supports competition, however, disagrees with any requirement to enroll a customer into an EGS offering without the customers' express consent to do so. Enrollment of customers, who do not choose to select a specific alternative electric supplier, into a randomly selected EGS program and service offerings is not "Customer Choice," and may likely result in a plethora of other problems.

It is Duquesne's position that competitive energy pricing, customer service and marketing among competing service providers should be the catalysts to a robust energy market. In its support of competition, Duquesne has eliminated declining block rate structures to provide a simplified Default Service rate structure for Residential and Small C&I customers so that it is easy for them to compare prices on a KwH basis. Duquesne also offers a Purchase of Receivables program for these customers.[2]

Duquesne does not believe a government imposed program forcing customers to take service from a supplier they never elected is the proper path to a robust market.

2. Unnecessary Expense

The proposed Referral Program places numerous new technology requirements on the Electric Distribution Companies (EDCs), such as requirement to retain recordings of the conversation where the customer agrees to participate in the program, and requirements to develop and maintain a dedicated webpage to the referral program which includes functionality to randomly assign customers to an EGS who do not desire to pick a specific supplier. Additionally, for customers who do not have internet access, the guidelines propose a hard copy mailing providing the options available under the

[2] Duquesne Light was the first major EDC in the Commonwealth to offer a Purchase of Receivables ("POR") program, and this program will continue with its now pending POLR V default service plan.

programs. Within days of enrollment, utilities would be required to send the customer a letter and initiate an EDI transaction to notify the EGS of the enrollment. If adopted, the proposed referral program would require all of the current enrollment, switching and notification rules to be changed across multiple systems and program tracking codes would need to be added. The list of changes and related expenses goes on and on.

Duquesne estimates the EGS Referral Program, if implemented as proposed, would increase costs to Duquesne customers an estimated $2 million for expenses, including multiple program changes, development of a website and telephonic applications, and other costs related to consumer confusion and billing inquiries, as well as the costs associated with various mailings, such as paper, postage and mailing services, etc.

It is Duquesne's position that it is unwise and premature to move forward with changes to the existing processes that add costs without clearly identified benefits to customers.

3. Cost Recovery Surcharge

The proposed EGS Referral Program allows for costs for the administration of this program by the utilities to be recovered through a Retail Markets Surcharge, which "shall be non-bypassable and shall be applicable to all customers within the residential and small commercial rate classes".

Duquesne opposes a Retail Markets Surcharge which would be imposed on all customers of a given rate class, whether they were participating in an EGS program or not.

It is Duquesne's position that all consumers should not be forced to pay a surcharge, regardless of whether they are participating in an alternative supplier program or not. Instead, Duquesne believes that robust energy market's exist where competing EGSs come up with their best, most cost efficient service offering that will attract the customer while keeping their business profitable, and then allowing the customer to be able to choose the offer that best suits them.

4. Introductory Offering

The proposed EGS Referral Program requires EGSs to provide customers referred to them an introductory discount of 7% off the EDC POLR rate for the introductory period of two months. Further, all informational materials promoting a referral program must conspicuously disclose that the savings offered during the introductory period are not guaranteed beyond that period.

Duquesne believes these plans are not in the best interests of customers. They wrongfully entice customers to join an alternative supplier thinking that they will save money. Then once the customer is enrolled, the price can be raised to any level as it is not regulated. The Commission should not lend its name or support to a plan that exposes customers to this potential deception.

Similar concerns have been raised in New York by Gerald Norlander, Executive Director of the Public Utility Law Project of New York, Inc.[3] In March 2007, Mr. Norlander testified that:

> The New York "ESCO Referral Program" offers a "teaser" introductory rate to induce customers to switch…approximately $2.80. Only after the switch does the

[3] PULP is an independent nonprofit organization in Albany, New York, created by community and legal aid organizations to represent the interests of low income utility customers.

customer have the opportunity to learn what the rates and terms will be after the introductory period-assuming that the disclosure are timely mailed and scrutinized by the customer before the end of the period. This is a classic "bait and switch" or "cramming" tactic: baiting the customer with a temporary price break...and then switching to alternative, more expensive terms and conditions unless the customer affirmatively rejects them...There is no oversight of the post-introductory rate levels or required disclosure of a comparison with regulated rates from the distribution company. The "teaser" rate followed by significantly higher post-introductory period rates, along with early termination charges, has led to significant consumer dissatisfaction in New York.[4]

Duquesne shares similar concerns about the way these programs are structured and the ease with which customers are assigned or deemed to "accept" a contract at unregulated rates not subject to Commission review without their affirmative consent. It is Duquesne's position that "teaser" rates offered for short periods of time, established only to entice customers to switch, may offer no long-lasting consumer benefit, and risk eroding consumer confidence in competitive energy markets.

5. Proposed Website

The EGS draft referral program suggests that EDCs should create and run a dedicated webpage for the referral program. This webpage shall contain utilities' existing rates (or PTC), a list of the EGSs participating in the referral program, the EGSs' introductory discount rate, and post-introductory period rate offerings for each EGS. Duquesne submits that such a webpage, as described here, is unnecessary to foster competition.

Duquesne already has a dedicated portion of its website regarding customer choice, which assists consumers without a mandated referral program. The website

[4] Testimony of Gerald A. Norlander, Executive Director, Public Utility Law Project of New York, Inc., before the Committee on Energy and Technology of the Connecticut General Assembly, March 6, 2007 at 7-8

includes multiple pages with information on customer shopping. The Company has a section on its website that educates customers regarding electric choice, a section describing what the customer needs to do to shop, including price to compare information, a supplier checklist and a section on suppliers servicing residential and small C&I customers.

Also, Duquesne provides links to the Pennsylvania Public Utility Commission and the Office of Consumer Advocate web pages, which provide up-to-date competitive EGS offering information. Duquesne appreciates the oversight the Commission and the Office of Consumer Advocate gives to this process and believes it is an important ingredient needed to assure the balance of competition with accurate customer information. Duquesne, or any EDC, should not be placed in the role of marketer for suppliers.

Conclusion

Duquesne Light has long supported the Pennsylvania energy retail markets, and has in place today a number of programs each designed to further promote retail competition in its service territory. As a participating member of various working groups tasked with resolving obstacles that block the free flow of information related to Customer Choice, Duquesne has expended significant effort establishing the processes and procedures that support customer participation in a program which allows them choices in their electric generation supplier.

Together, these efforts, tailored to the specific needs of different customer classes, have resulted in Duquesne Light having one of the highest shopping levels in the country and the highest in the Commonwealth.

It is Duquesne's position that these types of customer referral programs are not the best manner to achieve a meaningful and robust market that provides real choices to customers, and would add undue costs as well as add confusion and discontent to customers.

Respectfully Submitted,

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