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August 29, 2016

E-FILED

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

Re: **Proceeding to Evaluate Transition to Corrected Non-Solar Tier I Calculation
Methodology
Docket No. M-2009-2093383**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Comments regarding the above-referenced proceeding.

If you have any questions regarding the filing, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads "Shelby A. Linton-Keddie".

Shelby A. Linton-Keddie
Manager, State Regulatory Affairs
And Senior Legal Counsel

Enclosure

cc: Scott Gebhardt (sgebhardt@pa.gov)
Kriss Brown (kribrown@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Proceeding to Evaluate Transition to
Corrected Non-Solar Tier I Calculation
Methodology**

Docket No. M-2009-2093383

**COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. BACKGROUND

On July 8, 2016, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) notified all electric generation suppliers (“EGSs”) and electric distribution companies (“EDCs”) via a Secretarial Letter that it discovered an error in how non-solar Tier I Alternative Energy Credits (“AEC”) quarterly adjustments had been calculated. The July 8 Secretarial Letter further explained that in order to correct the error for the 2016 compliance year, there is an approximate seven percent increase in the otherwise anticipated annual non-solar Tier I obligations. Since issuance of the July 8 Secretarial Letter, the Commission and staff have engaged in conversations with numerous stakeholders in an effort to determine how best to proceed to resolve this issue.

In the interim, to give affected parties more time to address the issue, the Commission issued a second Secretarial Letter on August 9, 2016, that extended the 2016 Compliance Year true-up period for adjustments from September 1, 2016 to November 30, 2016 for non-solar Tier I AECs.

Thereafter, on August 15, 2016, the PUC issued a *Tentative Order*, which memorialized the August 11, 2016 C-Motion by Chairman Brown, to address the unanticipated increase in non-solar Tier I AECs. Pursuant to the *Tentative Order*, interested parties have fifteen days from the

date of service to file comments, *i.e.*, on or before August 30, 2016. Consistent with the *Tentative Order*, Duquesne Light Company (“Duquesne Light” or “Company”) hereby files comments for the Commission’s consideration.

II. COMMENTS

As correctly articulated by the Commission in the *Tentative Order*, the Alternative Energy Portfolio Standards Act (“AEPS Act”) was signed into law on November 30, 2004 and took effect in 2005. P.L. 1672, No.213. Importantly, the AEPS Act *requires* that an annually increasing percentage of electricity sold to retail customers by electric EDCs *and EGSs* shall be derived from alternative energy resources. 73 P.S. §1648.3(a)(1)(emphasis added) The only contemplated deviation from this responsibility of EDCs and EGSs in the AEPS Act is when the Commission determines a “force majeure” exists.¹ That is not the case here. In this instance, an administrative miscalculation has resulted in an approximate seven percent increase of Tier I non-solar credits for the 2016 compliance year. While the Commission is charged with using its general powers to carry out, execute and enforce the provisions of the AEPS Act, it is beyond the scope of the PUC’s statutory authority to relieve EGSs from the responsibility to procure credits on their customers’ behalf without a force majeure present.

In the August 15, 2016 *Tentative Order*, the Commission proposed two main remedial options to stakeholders for comment. First, the PUC suggests that EDCs be responsible for the entire Tier I shortfall for their respective distribution zone (therefore releasing EGSs of the responsibility of procuring credits on behalf of their retail customer load as required by the AEPS Act). Alternatively, the Commission contemplates delaying the true-up period for the non-solar Tier I adjustment credits to November 30, 2016 or some other date. This option is

¹ As explained in the AEPS Act, the PUC can declare a Force Majeure if the commission “...determines that alternative energy resources are not reasonably available in sufficient quantities in the market place.” 73 P.S. §1648.2.

preferred by the Company, as it is easier to implement, mitigates market impacts and would retain AEC obligations for both EDCs and EGSs, consistent with statutory directives.

Duquesne Light appreciates and understands the Commission's desire to achieve a resolution that minimizes the impact on stakeholders while upholding the PUC's charge to effectively implement the AEPS Act. However, any solution needs to comply with the unambiguous requirements of the AEPS Act. To that end, the Company offers the following comments for the Commission's consideration.

1. Duquesne Light Does Not Support Forcing EDCs to Procure All the Tier I AECs for the Entire Zone and Pass Costs to EDC Customers through An Existing Non-Bypassable Distribution Surcharge, as This Option is Inconsistent with the AEPS Act.

The first proposal released by the Commission for comment contemplates that the PUC "leverage the purchasing power and billing functionality of the EDCs to ameliorate the market effects of the miscalculation." *Tentative Order* at 5. For this option, the PUC (through the AEPS Administrator) would first determine the number of adjustments for each EDC's distribution zone. Each EDC would then be required to procure the credits (either on the spot market or through competitive bid) and would also transfer credits to all load serving entities (LSEs) within the EDC's distribution zone. Under this option, the Commission suggests that the cost for EDCs to procure these additional credits would be recovered in a pre-existing non-bypassable charge on a rider as determined by the EDC. Should this option be chosen, EDCs would be required to submit a compliance filing that details procurement implementation and tariffed cost recovery.

As indicated above, Duquesne Light does not support any option that relieves EGSs of their statutorily required obligation to procure AECs on their customers' behalf. Not only does

this suggestion overstep the Commission's authority under the AEPS Act (*see discussion supra*), but it also is wrought with difficulties from an implementation perspective. In addition to the statutory limitations that prohibit such a proposal, the Company's practical concerns include but are not limited to: the time it takes to verify all the data for an entire zone, the contractual (and other) issues for relieving default service EGSs and other LSEs of responsibility for what they are otherwise statutorily obligated to provide, the potential cost inflation that could occur when the market knows that only the EDC will be procuring the Tier I non-solar shortfall and the additional cost and resources required to properly bill this issue. At a minimum, these additions include the creation and filing of an implementation plan and tariff supplement as well as the potential communication and customer call-center impact when the new charge is implemented.

Despite the Commission's belief that this option could ameliorate market effects, for all the reasons listed above, Duquesne Light believes that this course of action is arguably more disruptive than the second suggestion to delay the true-up period until November 30, 2016, the 2017 compliance year or later. First, EDCs do not have any more "leverage" to purchase these Tier I non-solar credits than any other purchaser. EDCs and EGSs alike will go through similar processes (whether on the spot market or through competitive bid) to make up this administrative shortfall. Secondly, there are numerous EGSs operating in the Company's service territory (at last count approximately 88), so redistribution of AECs when otherwise not necessary is administratively burdensome.

Moreover, while it sounds like a simple proposition to have EDCs recover costs through pre-existing non-bypassable charges, in reality, at least for Duquesne Light, this is not a preferred solution. The Company currently has three non-bypassable reconcilable riders applicable to all customer classes – Rider 1, Retail Market Enhancement Surcharge ("RME");

Rider 15A- Phase III Energy Efficiency and Conservation Surcharge (“EEC”) and Rider 20 – Smart Meter Charge (“SME”).

The EEC and SME are not options for AEC charge additions because Duquesne Light does not believe that those costs should be mixed with either energy efficiency or smart meter program costs, which could create unnecessary complexity for audit purposes.

While the RME is a possibility, it is currently structured as a fixed charge per month. For AEC costs, however, we believe that recovery on a per kWh basis would be more appropriate to fairly assign cost recovery. This would require changes to the Company’s billing system. Additionally, distribution rates for Large commercial and industrial (“C&I”) rate classes and street lighting rate classes are demand based (\$/kW/month) and fixed charges per month, respectively. If ordered by the Commission, the preferred approach would be to create a new non-bypassable rider to address cost recovery.

Lastly, because of the rate issues articulated above, any charges that are created will have bill presentation implications. A kWh based charge could be combined with existing kWh charges for Duquesne Light’s residential class as the Company does with other surcharges. However, depending how structured, non-residential classes may require a separate line item, which would need to be created. Because of this addition, it is likely that messaging, definitions and explanations would also need to be created. All of these considerations, including costs and administrative burden, need to be evaluated prior to the Commission pursuing this type of solution. Conversely, none of these issues arise if the Commission chooses instead to delay the true-up period and have EDCs, wholesale default service suppliers and EGSs, respectively obtain and bill for the AECs they are otherwise statutorily obligated to provide.

2. Duquesne Light Supports the Commission’s Suggestion to Delay the True-Up Period for These Additional AECs to November 30, 2016 or Later.

The Commission proposes an alternative in its *Tentative Order* providing for a delay in the obligation to settle the adjustment period – however, the only time period suggested would comply with the current extension, which is November 30, 2016. In theory, Duquesne Light much prefers this option over the first proposal as it retains the current statutory responsibilities for all LSEs, allows an EDC to definitively identify the number of AECs it must obtain before doing so, and does not create additional administrative burden as described at length above.

The one suggestion regarding this option the Company has, however, is that rather than delaying the true-up period until November 30, 2016, the true-up should be delayed until the 2017 compliance year or later. Doing so ameliorates the impact this unexpected seven percent increase would otherwise bear on the market and more readily allows EDCs, as well as EGSs, the ability to utilize existing scheduled solicitations or spot market or a combination of both to meet its obligations. A delay until the 2017 compliance year would also allow default service providers to adjust the requirements in future solicitations and clearly communicate the addition prior to receiving bids. A push to get this done by November does none of this.

III. CONCLUSION

Duquesne Light appreciates the Commission’s time, attention and suggestions to address the mathematical error in the quarterly adjustments of the non-solar Tier I AECs in a way that keeps the market whole. After reviewing the AEPS Act, the PUC’s proposals, Duquesne Light’s current AEC obligations as well as the logistics to carry out the suggested proposals, the best solution for Pennsylvania consumers is to delay the true-up period to 2017 or beyond, thus allowing sufficient time for both EDCs and EGSs to utilize the market and their own business

processes to resolve the unanticipated adjustment while still adhering to their obligations under the AEPS Act.

Respectfully submitted,



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DATE: August 30, 2016