

COMMONWEALTH OF PENNSYLVANIA



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September 30, 2020

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
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Re: Petition of Duquesne Light Company for  
Approval of Default Service Plan for the  
Period of June 1, 2021 through May 31, 2025  
Docket No. P-2020-3019522

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Main Brief in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Certificate of Service

\*297083

## CERTIFICATE OF SERVICE

Re: Petition of Duquesne Light Company for :  
Approval of Default Service Plan for the : Docket No. P-2020-3019522  
Period of June 1, 2021 through May 31, 2025 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Main Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 30<sup>th</sup> day of September 2020.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for :  
Approval of Default Service Plan for the : Docket No. P-2020-3019522  
Period of June 1, 2021 through May 31, 2025 :

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MAIN BRIEF  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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## I. INTRODUCTION

On April 20, 2020, Duquesne Light Company (Duquesne or Company) filed with the Public Utility Commission (Commission) its Petition for Approval of Default Service Plan (Petition) for the Period June 1, 2021 Through May 31, 2025. The proposed plan is Duquesne's Ninth Default Service Plan (DSP IX or Plan). In addition to its proposal for procuring and pricing default service supply to serve its non-shopping customers over the four-year course of DSP IX, Duquesne's Plan also seeks approval of these other elements of its Plan: 1) Electric Vehicle Time-of-Use Pilot Program (EV-TOU), 2) Long-Term Solar Power Purchase Agreement (Solar PPA) Plan, 3) Standard Offer Program (SOP), 4) Customer Assistance Program (CAP) Shopping Program, and 5) proposal to recover cash out payments to customer generators.

Notice of Duquesne's filing was published in the May 9, 2020 issue of the *Pennsylvania Bulletin* with direction that any protests, petitions to intervene or answers were to be filed by June 5, 2020. The case was assigned to Administrative Law Judge Mark A. Hoyer and a prehearing conference was set for June 12, 2020.

The Office of Consumer Advocate (OCA) entered this proceeding with the filing of its Notice of Intervention and Answer on May 22, 2020. The Office of Small Business Advocate filed its Notice of Intervention and Answer on May 20, 2020 and on June 9, 2020, the Commission's Bureau of Investigation and Enforcement filed its Notice of Appearance.

At the June 12 prehearing conference, ALJ Hoyer granted petitions to intervene of the following parties: Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Calpine Retail Holdings, LLC (Calpine), StateWise Energy Pennsylvania, LLC and SFE Energy Pennsylvania, LLC (together, StateWise), Natural Resources Defense Council (NRDC), ChargePoint, Inc., Mid-Atlantic Renewable Energy Coalition (MAREC), and a coalition

of Electric Generation Suppliers (EGSs) styled as “EGS Parties” consisting of Interstate Gas Supply, Inc., Shipley Choice LLC, NRG Energy, Inc., Vistra Energy Corp., Engie Resources LLC, WGL Energy, and Direct Energy Services, LLC.

The OCA retained the services of two experts to assist in its review of the case, Dr. Serhan Ogur,<sup>1</sup> who analyzed issues related to default service procurement and rate-setting as well as Duquesne’s proposed EV TOU and Solar PPA plans, and Barbara R. Alexander,<sup>2</sup> a consumer services and consumer protection expert, who reviewed Duquesne’s proposals related to SOP and CAP Shopping. The OCA engaged in five rounds of discovery and each of its witnesses filed Direct, Rebuttal and Surrebuttal testimony.

In keeping with Commission’s policy encouraging settlements (52 Pa. Code §5.231), Duquesne entered into settlement discussions with the parties during the course of the proceeding, and has been successful in reaching settlement with parties on a number of issues, including procurement plans and rates, the residential reconciliation period, an expanded role for its procurement process monitor, recovery of net metered excess generation costs, the inclusion of the Price to Compare (PTC) on Duquesne consolidated bills for shopping customers to facilitate comparison with supplier charges, and a change to its Supplier Coordination Tariff which will

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<sup>1</sup> Dr. Serhan Ogur is a Principal with Exeter Associates, Inc., an energy and economics consulting firm specializing in public utility regulation. Dr. Ogur received a B.A. degree in Economics from Bogazici University (Istanbul, Turkey) in 1996 and a Ph.D. in Economics from Northwestern University in 2007. Dr. Ogur has 19 years of experience in the energy industry specializing in organized wholesale and retail electricity markets. He was previously employed as an Economic Analyst at the Illinois Commerce Commission; a Senior Economist at PJM Interconnection LLC; and a Senior System Operator at Fellon-McCord & Associates. Dr. Ogur’s qualifications are detailed in OCA St. 1 at 1-2, App. A.

<sup>2</sup> Ms. Alexander is a Consumer Affairs Consultant who works on consumer protection and customer service issues associated with utility regulation. Ms. Alexander is an attorney and a graduate of the University of Michigan (1968) and the University of Maine Law School (1976). Prior to opening her consulting practice in 1996, she spent nearly ten years as the Director of the Consumer Assistance Division of the Maine Public Utilities Commission. Her current consulting practice is directed to consumer protection, customer service, and low-income issues associated with both regulated and retail competition markets. Ms. Alexander’s qualifications are detailed in OCA St. 2 at 1-3, Exh. BA-1.



allow Duquesne to seek certification from suppliers that they are only billing residential customers for basic electric supply through Duquesne's consolidated bill. All of these matters will be the subject of a Joint Petition for Partial Settlement at the appropriate time.

In addition, on several other issues where a full settlement could not be reached, Duquesne has been able to enter into Joint Stipulations with several parties with respect to those issues, specifically, the EV TOU Pilot Program and the SOP and CAP Shopping. The OCA is a signatory to both of these Joint Stipulations and their merits will be addressed below. On two other issues - - the Solar PPA and the recovery of Network Integration Transmission Service (NITS) costs – no settlement or Joint Stipulation has been reached and those matters will be litigated.<sup>3</sup>

## II. SOLAR PPA

### A. Duquesne's Proposal and OCA Proposed Modification.

In its Petition, Duquesne explains that it is in the process of evaluating the benefits of executing long-term PPAs (more than four years and less than twenty years) to support development of utility-scale solar energy projects in Pennsylvania, with a preference for projects within the Duquesne service territory. Duquesne did not submit a detailed plan to procure solar power through long-term PPAs, but it presented some basic concepts that would form the basis of a more detailed plan. In aggregate, the projects are proposed to be limited to not more than 7 MW. Duquesne anticipates buying the energy and alternative energy credits (AECs) from the solar project(s) as part of the PPA(s), with the possibility that the Company would also purchase capacity and ancillary services attributes of the project(s). Duquesne proposes to use the alternative energy credits resulting from the project(s) to satisfy, in part, the solar requirements of the Company's

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<sup>3</sup> Through the course of this proceeding, the OCA has taken no position with respect to the NITS cost recovery issue and will not address it in this brief.

default service loads. Duquesne plans to monetize the energy by selling it in PJM's real-time energy market, rather than netting this energy from default service loads. Under Duquesne's proposal, the cost of the PPA(s) and all revenues earned by the Company from these projects will accrue to all default service customers at the same weighting as each customer class's solar alternative energy credits obligation share Duquesne Statement 1 at 13-17.

In his Direct Testimony, OCA witness Ogur explained that he did not oppose the Company's proposal. Dr. Ogur recommended, however, that in order to properly evaluate the proposed solar solicitation, it is a necessary consumer protection to conduct an analysis of the future benefits of the long term solar contracts. By utilizing the most current and best available market data, an assessment can be made as to the reasonableness of the Company's solar proposal. Specifically, OCA witness Ogur testified that the addition of a long term solar contract should not be approved if it would increase the price of default service over time. Dr Ogur explained:

DLC should demonstrate that any solar PPA that DLC will propose should be at least revenue-neutral over the term of the contract (i.e. sum of the projected revenues from all attributes should not be lower than PPA payments made to the developer on a discounted cash flow basis) based on forward price projections. As part of its solar PPA filing, DLC should provide price projections for each attribute (energy, alternative energy credits, capacity, ancillary services) of the solar PPA(s) over the term of the contract(s) and demonstrate that the projects are either revenue-neutral or revenue-positive for the default service customers.

OCA St. 1 at 18-19.

In response, Company witness Davis testified that the solar proposal could not be assessed against future market pricing, as such pricing was speculative. Duquesne St. 1-R at 5. The Company further explained that, because price projections beyond three years are speculative, an analysis of the revenue-neutrality of the proposed solar PPA would be subjective. Id. Mr.

Davis concludes that the PPA will be competitively bid, and as a result, the Commission “will be in a better position” to decide whether or not “to enter into the contract.” Id.

The OCA submits, however, that the Company’s objection to Dr. Ogur’s recommendation to assess whether or not the solar PPA will be revenue neutral is misplaced. The OCA does not dispute that future market projections are by their very nature speculative. In his Rebuttal testimony to arguments furthered by the EGS Parties, OCA witness Ogur explained the benefits of a long term solar PPA despite the uncertainty of the costs of such contracts relative to future pricing:

[W]hile it is certainly possible that long-term contracts may turn out to be uneconomic over the course of the delivery period relative to then-prevailing market prices, it is just as possible that the contracts turn out to be below market over the course of the delivery period. What is relevant here is that the future market prices for energy, solar AECs, or capacity are not known. Therefore, long-term solar PPAs for energy and AECs, and possibly for capacity and ancillary services attributes as well, operate as a hedge against large price increases during the term of the contract, not necessarily as a means to secure the lowest possible price at any particular time. In fact, the Commission supports this view by giving EDCs the flexibility to include long-term products in their default service product portfolios.

OCA St. 1-R at 9. As Dr. Ogur testified, long term contracts can provide a valuable hedge against future unexpected price increases during the life of a contract.

Despite the uncertainty surrounding long term market projections, it is important to analyze the costs and benefits of long term contracts based on the best available current data. By conducting such analysis, the Company is better suited to meet the requirements of Act 129 of 2008 and the Commission’s Regulations, where Duquesne must provide a service that is “least cost over time.” 66 Pa.C.S. §2807(e)(3.1)-(3.7).

Dr. Ogur testified that there is ample support in the current market data to evaluate the benefits and potential harm that the Company's solar proposal may entail. Dr. Ogur testified as follows:

While I agree that price projections beyond a few years depend on the assumptions used in the analysis and thus are subjective, they are still an invaluable part of project evaluation. The purpose of price projections is not to forecast future energy, capacity or solar alternative energy credit ("AEC") prices with accuracy, but to inform the decision maker on how the project (the solar PPAs in this instance) can be expected to perform financially under a reasonable set of assumptions regarding future prices, costs, and fundamental market developments affecting supply and demand. This is a standard way of evaluating electric generating projects used by utilities as well as by large end-use customers.

OCA St. 1-S at 6-7. As Dr. Ogur explained, market projections are just projections but sound and reasonable planning require a utility to utilize the best available data to make a judgment as to how to move forward with a PPA. If the best available data says that this contract will negatively impact rates, then it should not be entered into.

The Company argues that the fact that the solar contract solicitation will be competitively bid does not ensure that the result is in ratepayers' best interests. As Dr. Ogur testified:

There may be various reasons for even the most attractive bid to be "too high" at that time, such as challenges in access to credit by the developers or disruptions in supply chains that make fixed-price commitments too risky for vendors or developers. There needs to be a threshold price to serve as a benchmark against which the reasonableness of the PPA can be assessed to make a determination as to whether it represents a reasonable commitment to be entered into on behalf of default service customers. The price projections that DLC would generate would help all stakeholders, including the Commission, to determine that threshold PPA price level.

OCA St. 1-S at 7.

The Commission should have an assessment of the revenue neutrality recommended by OCA witness Ogur of any long term solar PPA when determining whether to approve the contract or not. With this consumer protection in place, the OCA supports the Company's planned solar procurement as detailed in its filing.

B. EGS Parties' Position and OCA Response

EGS Parties' witness, Christopher Kallaher, does not outright oppose Duquesne's Solar PPA proposal. Rather, he see potential problems with the proposal and recommends that it be put on hold for now. EGS Parties' St. 1 at 26. Mr. Kallaher cites three aspects of the Company's Solar PPA plan that give him pause. First, he states that the opportunity to move to an alternative default service provider (other than Duquesne) may be hindered or foreclosed if the Company enters into contracts that extend beyond the end of the DSP IX period. Second, Mr. Kallaher notes that the long-term contracts may turn out to be uneconomic over the course of the delivery period relative to then-prevailing market prices. Third, Mr. Kallaher argues that Duquesne's stated plan to enter into long-term solar PPAs may hinder the development of the solar industry in Pennsylvania. Mr. Kallaher suggests that solar projects currently under development may pass up current contracting opportunities in order to contract with Duquesne in the future. Mr. Kallaher also posits that a Duquesne solar PPA will decrease the likelihood of passing a bill in the Pennsylvania legislature allowing community solar projects to go forward. EGS Parties' St. 1 at 23-25.

OCA witness Dr. Ogur disagreed with Mr. Kallaher's concerns with the Solar PPA. Regarding the concern for hindering or foreclosing the opportunity for the Commission to select an alternative default service provider in the future, Dr. Ogur testified:

[A]ny contractual obligations incurred by DLC by entering into contracts that extend beyond the end date of DSP IX can be transferred to a new default service provider if one were to be approved. In addition, Pennsylvania electric distribution companies (“EDCs”) as default service providers routinely enter into FPCR power supply contracts (which are approved by the Commission) that extend beyond the end date of the default service plan period to avoid a “hard stop” on supply at the end of the period. Failure to enter into such “overhanging” contracts unnecessarily exposes residential customers to price shock risk at the start of a new default service plan period.

OCA St. 1-R at 8-9.

Dr. Ogur also testified with respect to Mr. Kallaher’s concern that Duquesne’s default service customers could end up paying for contracts that become uneconomic over time. Dr. Ogur stated:

[W]hile it is certainly possible that long-term contracts may turn out to be uneconomic over the course of the delivery period relative to then-prevailing market prices, it is just as possible that the contracts turn out to be below market over the course of the delivery period. What is relevant here is that the future market prices for energy, solar AECs, or capacity are not known. Therefore, long-term solar PPAs for energy and AECs, and possibly for capacity and ancillary services attributes as well, operate as a hedge against large price increases during the term of the contract, not necessarily as a means to secure the lowest possible price at any particular time. In fact, the Commission supports this view by giving EDCs the flexibility to include long-term products in their default service product portfolios.

OCA St. 1-R at 9.

On Mr. Kallaher’s concern that a Duquesne Solar PPA may hamper the development of the solar industry in Pennsylvania or that it may decrease the likelihood of community solar legislation being passed in the General Assembly, Dr. Ogur testified:

[I]t is unreasonable to expect DLC’s long-term solar PPA for 7 megawatts or less to have any negative impact on the long-term solar contracting market in Pennsylvania. There are 269 solar projects in Pennsylvania in the PJM generation interconnection queue (as of August 13, 2020), representing more than 9,000 megawatts (with a status of active, under construction, or engineering and procurement). The capacity sought by DLC is barely a drop in the bucket relative to the overall size of the solar projects in Pennsylvania waiting in PJM’s generation interconnection

queue. Similarly, it is hard to imagine how a 7-MW utility-scale solar PPA that DLC may execute would hinder the passage of a bill in the Pennsylvania legislature that supports community solar projects. In fact, long-term contracts for bundled energy and AECs are generally seen to support renewable energy project development, not to impede it.

OCA St. 1-R at 9.

Consistent with Dr. Ogur's testimony, the OCA does not support Mr. Kallaher's recommendation to put the Solar PPA proposal on hold. On the contrary, the OCA sees no reason why this proposal should not be approved by the Commission and implemented by Duquesne.

### III. STANDARD OFFER PROGRAM (SOP)

#### A. Current and Proposed Program

Duquesne currently offers a SOP to residential and small commercial and industrial customers who are not shopping for their electric supply and who contact the Company to initiate or move service, discuss choice questions, resolve high bill concerns, or inquire about the SOP. After the customer's specific inquiry is resolved, a Duquesne customer service representative provides the customer with information about the SOP utilizing an established script. If the customer indicates interest in participating in the SOP, the customer is transferred to a participating EGS for program details and potential enrollment. The SOP provides a fixed price of 7% below the Company's then-effective PTC for a period of 12 months. Petition at 18.

For DSP IX, Duquesne is proposing to outsource the SOP presentation and referral function to a third-party, AllConnect, with whom Duquesne has an existing business relationship. This function will no longer be performed by Duquesne customer service representatives. Among the reasons for proposing this change, the Company believes that outsourcing will lead to increased SOP participation by increasing referral rates and potentially referral-to-enrollment rates. The Company points out that its referral and referral-to-enrollment rates are below those of the First

Energy Companies, which use a third-party vendor for SOP presentation and referral. The Company proposes to utilize scripts for referring customers to AllConnect that are similar to those used by the First Energy EDCs to refer customers to their SOP vendor. Petition at 18-19; Duquesne St. 5 at 6-10.

B. OCA's Position on Duquesne's Proposal

OCA witness Alexander performed a careful review of the SOP and Duquesne's proposed changes. On the basis of her review, Ms. Alexander made several recommendations with respect to the SOP. First, she concluded that there was no reason for a change to utilizing a third-party vendor. Ms. Alexander stated that the current program "is being implemented at a significantly lower cost compared to other Pennsylvania EDCs and is currently in compliance with Commission guidance and its prior Settlement." OCA St. 2 at 13. In response to Duquesne's specific concerns about experiencing lower referral rates than other EDCs that use third-party vendors, Ms. Alexander stated:

There is no basis for concluding that transferring the call to AllConnect to hear more details about the SOP would result in a higher level of enrollment unless there is some evidence that DLC's current approach is the cause of customers' lack of interest in the program. I see no basis for such a conclusion and DLC offers none.

DLC's claim that other EDCs enroll a higher percentage of customers in the SOP does not reflect the more recent enrollment trends as documented by PECO Energy and PPL Electric in their pending DSP proceedings. DLC's reliance on FirstEnergy EDC enrollment data does not reflect any pending or recently concluded public proceeding.

OCA St. 2 at 13-14. In her Surrebuttal testimony, Ms. Alexander further explained:

I submitted evidence in my Direct Testimony based on listening to actual DLC calls with customers and in almost every case the proper presentation of the SOP was made to customers, but all but one customer declined interest in the program. The customer's reaction to the DLC presentation was not based on the inadequate explanation of the program. Nor did customers appear to seek additional information. Rather, the customers



were simply not interested in shopping with a supplier. Ms. Scholl appears to think the lack of customer interest in the program or lack of “referrals” and “enrollments” is due to the DLC’s inability to market and promote the program. I disagree.

OCA St. 2-S at 8.

A second recommendation made by Ms. Alexander related to SOP was that the Company should conduct a study of the prices charged by the SOP suppliers after the 12-month fixed price contract for customers who remain with the supplier as a result of not having taken any action at the conclusion of the SOP contract and being rolled over into a new contract with the SOP supplier. Ms. Alexander noted evidence presented by PPL Electric in its current Default Service case which showed that most customers who remain with the SOP supplier experience significantly higher generation supply prices. She stated that this should be of interest and concern to Duquesne. OCA St. 2 at 4.

Ms. Alexander’s third recommendation related to SOP was that prior to any future DSP, Duquesne should undertake a survey or focus group with participating SOP customers to determine their opinion of the program and to test their knowledge of the operation of the initial discounted price with the movements in the PTC during the term of the contract. Further, Duquesne should explore why customers who were solicited to do so have not enrolled in the program. The survey should also explore customer understanding of the EGS renewal notices and opt-out terms of service that customers may have experienced.

In her Surrebuttal testimony, Ms. Alexander expressed concern about the scripts that Duquesne proposed to be used by AllConnect representatives in speaking with customers about the SOP. OCA St. 2-S at 9-10. She also raised concerns regarding the language to be used by Duquesne customer service representatives when transferring customer calls to AllConnect. OCA St. 2-S at 11.

### C. EGS Parties' Position and OCA Response

EGS Parties' witness Kallaher supports changing the program to utilize the services of a third-party vendor for performing the presentation and referral function based on what he says "appears" to be higher referral and referral-to-enrollment rates at other EDCs that use third-party vendors. EGS Parties' St. 1 at 15. In addition, Mr. Kallaher proposes that all new or moving customers who call Duquesne to initiate service be automatically enrolled in SOP. His rationale for this proposal is that continuing to place new or moving customers on default service amounts to an ongoing "replenishment" of the default service customer base which puts EGSs at a competitive disadvantage, which he would like to see reversed. EGS St. 1 at 15.

In his Rebuttal testimony, Mr. Kallaher responded to Ms. Alexander's recommendation that Duquesne conduct a study of the prices paid by SOP customers who remain with their SOP supplier after the expiration of their SOP contract. He maintains that the comparison of EGS prices with default service prices is inappropriate and that it cannot form the basis for substantive Commission action without exceeding the Commission's authority to regulate EGS prices. EGS Parties' St. 1-R at 7.

Responding to Mr. Kallaher's proposal related to new or moving customers, Ms. Alexander stated:

This proposal would result in slamming new or moving customers into a contract with a supplier that they have not affirmatively agreed with. DLC already automatically presents information about the SOP to these customers after their transaction is completed. Those customers who choose to enroll with an EGS do so with an affirmative agreement. Any other approach would be improper and conflict with all the prior policies and precedent in Pennsylvania.

OCA St. 2-R at 5.

Ms. Alexander also took issue with Mr. Kallaher's assertion that conducting a study of the

prices paid by post-SOP customers who remain with their SOP supplier could not lead to any action that would not exceed the Commission's authority to regulate EGS prices. In response, she stated:

Mr. Kallaher's statement is belied by the history of restructuring and the adoption of default service and licensing policies in every restructuring state (with the exception of Texas). Restructuring states have adopted a policy of ensuring that residential customers have access to a stable and fixed price default service. This service is purchased through a competitive bidding process supervised by a neutral third party with the acquisition of a laddered set of contracts from wholesale market suppliers. Similarly, these states have required electric distribution companies to identify this default service price either on their customer bills or in widely disseminated customer education materials. Customers have been taught for many years to compare the price offered by the supplier with the default service price and most states, similar to Pennsylvania, maintain a web portal that lists the default service price and compares that price to supplier offers. Suppliers are free to offer time of use prices, one-time gift cards, fixed prices, variable prices, or even fixed bill amounts. However, customers are urged to compare the supplier bill to the default service bill as well as other attributes that the supplier may offer.

In addition, Ms. Alexander attached as an exhibit to her testimony a list of studies that have been done, some by Commissions and some by public advocates, that compare supplier bills and prices to default service bills and prices.

The proposals and arguments of the EGS Parties lack merit and should be rejected.

#### IV. CAP SHOPPING

##### A. Current and Proposed Program

Currently, customers enrolled in Duquesne's Customer Assistance Program (CAP) do not have the option to shop for their electricity generation supply. In DSP IX, the Company proposes to make that option available. The Company cites the Commission's Proposed Policy Statement Order on CAP Shopping that was entered February 28, 2019 at Docket No. M-2018-3006578 in which the Commission set forth guidelines for CAP Shopping that provided: (1) that a contract between an EGS and a CAP participant is to have a rate that is at or below the EDC's PTC in effect during the entire duration of the contract; (2) that a contract between an EGS and

a CAP participant may contain no early termination or cancellation fees, or other fees unrelated to the provision of electric generation service; and (3) that upon expiration of a contract with an EGS that a CAP participant be allowed to enter into another contract with the same EGS that meets the requirements outlined in (1) and (2), enter into a contract with another EGS that meets the requirements of (1) and (2), or enroll in default service. Petition at 20.

Duquesne proposes to implement a CAP Shopping program for DSP IX that meets the guidelines of the Proposed Policy Statement. In order for an EGS to qualify to serve CAP customers, the EGS must agree to certain conditions: (1) to provide service subject to the conditions set forth in the Proposed Policy Statement; (2) to use “rate ready” consolidated EDC billing; and (3) to file an annual affidavit affirming that the EGS intends to enroll CAP participants and that it will comply with all aspects of the Company’s CAP customer shopping program. Petition at 20.

B. OCA’s Position on Duquesne’s Proposal

OCA witness Alexander expressed support for Duquesne’s CAP Shopping program design. She stated that, “The program appears to reflect the key consumer protections outlined by the Commission in its prior orders.” OCA St. 2 at 18.

C. EGS Parties’ Position and OCA Response

EGS Party witness Mr. Kallaher recommends two modifications to Duquesne’s CAP Shopping proposal. First, he proposes that at the end of the initial contract term, if a CAP customer makes no affirmative choice to change suppliers or return to default service that they continue to be served by their existing supplier at a program-compliant price.

Second, he proposes that CAP customers be permitted to participate in SOP, provided they are served under a CAP-compliant product by the participating EGS. EGS St. 1 at 18.

Ms. Alexander responded to each of these proposals. With regard to allowing a CAP customer to remain with their existing supplier at a program-compliant price in the absence of affirmative action at the end of their initial contract, Ms. Alexander stated:

First, I do not understand Mr. Kallaher's "program compliant price." This offer might be the same in terms of the savings offered to the CAP customer in the original contract or it might be a different or lower level of savings compared to the original contract. If the EGS is offering a different pricing term, I recommend that the more appropriate action is to return the customer to default service and allow the CAP customer to sign up with one of the approved EGSs for this program. DLC's proposal to return CAP customers to default service at the end of the contract term with a participating EGS is the reasonable approach to take at this point and allow the CAP customers more experience in shopping and various EGS offers prior to considering Mr. Kallaher's proposal.

OCA St. 2-R at 5-6.

On Mr. Kallaher's proposal to allow CAP customers to participate in SOP, Ms. Alexander expressed strong opposition:

[SOP] is not compliant with the Commission's CAP Shopping program guidelines because there is no guarantee that the customer will be given a price equal to or lower than the Price to Compare during the 12-month term of the SOP contract. The SOP contract starts out with a 7% discount from the current PTC and is fixed for 12 months. This 7% discount could disappear completely or be significantly lower during the 12-month term depending on the movement of the PTC. The SOP is not compliant with a CAP shopping program.

OCA St. 2-R at 6.

Neither of the EGS Parties' proposals related to CAP Shopping are adequately protective of this very vulnerable segment of customers. They should be rejected.

## V. JOINT STIPULATION ON SOP AND CAP SHOPPING

### A. Description of the Joint Stipulation

The OCA is a signatory to this Joint Stipulation which generally provides for the implementation of the Company's SOP proposal, subject to certain modifications, and for withdrawal of the Company's CAP Shopping proposal until six months after there is a final, unappealable order in PPL Electric's ongoing Default Service proceeding at which time Duquesne will make a filing with the Commission that is consistent with the Company's CAP Shopping design and is informed by the results of the PPL proceeding.

With regard to SOP, the Joint Stipulation provides that Duquesne will outsource administration of the program to its designated third-party, AllConnect and that the costs associated with retaining AllConnect will be recovered from participating EGSs. Joint Stip. at ¶ a. As part of its transition to AllConnect, Duquesne will develop customer education scripts that are consistent with the practices of Pennsylvania EDCs that currently utilize third party SOP administrators. The Company will provide these scripts to the parties for review and comment. Id. Upon implementation of such scripting, Duquesne will monitor Allconnect's adherence to the scripts at regular intervals to ensure compliance and will provide a report of its efforts at the midpoint of DSP IX, including a random sampling of call recordings of monitored solicitations, as part of such report. Id. In addition, Duquesne will provide a report in its next Default Service filing that will document the third party administrator's compliance with the Company's SOP directives. Id. Further, the Joint Stipulation provides that Duquesne will conduct an analysis of SOP participants' supply rates following their initial 12-month SOP period and will present the results annually beginning in 2022. Joint Stip. at ¶ e.

As noted above, the Company's CAP Shopping proposal will be withdrawn and replaced by a filing to be made within six months of the conclusion of PPL Electric's Default Service proceeding. Issues related to CAP Shopping are being litigated by the parties to that proceeding, which include the OCA, CAUSE-PA and the EGS Parties.

**B. OCA Support for the Joint Stipulation**

As described in detail earlier, the OCA opposed the retention of a third-party administrator for the SOP. Given that Duquesne remains the only major default service provider in Pennsylvania that does not utilize a third-party administrator for their SOP, the OCA engaged Duquesne in discussions regarding ways to ensure best practices are followed given the OCA's experience reviewing the operations of SOPs throughout the Commonwealth. Under the stipulation, parties will have the opportunity to review and comment on the scripts to be used by Duquesne and AllConnect relative to the SOP as well as to require regular monitoring by Duquesne of AllConnect's adherence to these scripts and to provide reports to the parties of the Company's monitoring. Inasmuch as concerns over scripting and AllConnect's adherence to that scripting were specifically raised by OCA witness Alexander, the inclusion of these provisions in the Joint Stipulation are in the interests of Duquesne's customers who may be solicited to participate in SOP.

Also in the interests of these customers is Joint Stipulation's provision for conducting a survey of SOP participants' supply rates after their initial 12-month contract has expired. This provision is directly responsive to Ms. Alexander's second recommendation for the SOP.

For these reasons, the OCA submits that the Joint Stipulation is in the public interest and should be adopted by the ALJ and approved by the Commission and that other SOP proposals such as those put forward by the EGS Parties should be rejected.

Regarding CAP Shopping, despite the OCA's support for the CAP Shopping program proposed by Duquesne, the OCA recognizes that going forward with litigation on that proposal will inevitably lead to litigation of most of the very same issues that are currently being tested in the PPL Electric Default Service proceeding. The OCA regards the withdrawal of Duquesne's proposal and waiting for a decision in the PPL case as an exercise in administrative economy. Better to litigate these issues once before the Commission, not twice. Duquesne will then have the benefit of the PPL decision in fashioning its revised CAP Shopping plan.

The OCA submits that approach taken by the Joint Stipulation is superior to either of the CAP Shopping proposals put forward by the EGS Parties, both of which fall short of adequately protecting the vulnerable population that is CAP customers. For this reason, the Joint Stipulation should be adopted by the ALJ and approved by the Commission.

## VI. JOINT STIPULATION ON ELECTRIC VEHICLE-TIME OF USE PILOT PROGRAM

### A. Description of Joint Stipulation

The OCA is a signatory of the Electric Vehicle – Time of Use (EV-TOU) Pilot Program stipulation, which would allow the Company to move forward with its proposal as modified by the agreement. Importantly, the stipulation would require the Company to provide detailed data in its next DSP filing regarding operational details of the pilot program, while also requiring Duquesne to update its supply rate factors to ensure current data is applied to the rates of participating customers. EV-TOU Stipulation at ¶¶a, d.

### B. OCA Support for EV-TOU Pilot Program Stipulation

OCA witness Ogur reviewed the Company's EV-TOU pilot program and summarized the proposal as follows:



The Company is proposing an EV-TOU for residential, small C&I and medium C&I customers, available exclusively to those customers who own or lease a plug-in electric battery vehicle or a plug-in hybrid electric vehicle (collectively “EV”) or offer charging to employees or visitors. DLC proposes to supply EV-TOU loads from the same wholesale supply products as the rest of the default service customers in the corresponding customer class. DLC is proposing three distinct time periods for EV-TOU supply rates. The peak period is between 1 pm and 9 pm; off-peak period is between 11 pm and 6 am; and the shoulder period is the rest of the hours (6 am to 1 pm, and 9 pm to 11 pm). These TOU hours are valid for every day of the year, whether it is a weekday, Saturday, Sunday or a holiday.

OCA St. 1 at 12.

Upon review of the program, Dr. Ogur made three recommendations to improve the pilot program:

First, DLC should recalculate TOU rate factors each year based on rolling four-year average LMPs, customer class loads, and PJM capacity prices applicable to the DY, to prevent the rate factors from getting “stale.” Second, DLC should clearly state and justify any direct assignment of EV-TOU implementation costs to customer classes, and allocate non-direct assignment costs to customer classes on the basis of customer class default service loads, as measured in total kilowatt-hours (“kWh”). Third, DLC should present a detailed report on the performance of the EV-TOU in four years as part of its petition for the approval of its subsequent default service plan, and propose revisions to the design of the program based on its experience with EV-TOU as well as the experiences of other Pennsylvania utilities, and utilities nationwide with comparable programs. Potential improvements to the program may include redefining the TOU periods, and revising the DLC method used to calculate the supply rate factors.

OCA St. 1 at 15.

Under the EV-TOU stipulation, Duquesne agrees to annually reset the EV-TOU supply rate factors as part of its tariff supplements updating Default Service Supply rates, thus resolving the OCA’s first recommendation. EV-TOU Stipulation at ¶ d. In addition, the stipulation requires detailed reporting in the Company’s next default service plan. EV-TOU Stipulation at ¶ a. These

reporting requirements address the OCA's concerns regarding future utilization of EV-TOU rates. Finally, the EV-TOU stipulation provides for a collaborative meeting with the parties around the midpoint of DSP IX to discuss the EV-TOU Pilot Program implementation and results available to date. EV-TOU Stipulation at ¶ e. The OCA submits that such a review will allow the parties to assess the implementation costs and allocation of such costs. For these reasons, the EV-TOU Joint Stipulation should be adopted by the ALJ and approved by the Commission.

## VII. CONCLUSION

For the reasons set forth in this Main Brief, the OCA respectfully submits that the Commission should approve Duquesne's default service plan, as modified by the above-recommendations and stipulations. Approval of the plan as set forth in this Main Brief will help ensure that ratepayers receive a reasonably priced default service consistent with Pennsylvania law, while ensuring that consumer protections are included with retail shopping proposals.

Respectfully Submitted,

*/s/ David T. Evrard*

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