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October 13, 2020

VIA ELECTRONIC FILING

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

RE: 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; **REPLY BRIEF**

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission is the Reply Brief of Interstate Gas Supply, Inc., Shipley Choice LLC, NRG Energy, Inc., Vistra Corp., ENGIE Resources LLC., WGL Energy Services, Inc., and Direct Energy Services, LLC in the above-captioned matter. Copies of this Brief have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions related to this filing, please do not hesitate to contact me.

Very truly yours,

Todd S. Stewart
Counsel for EGS Parties

TSS/jld
Enclosures
cc: Administrative Law Judge Mark A. Hoyer (via electronic mail and first-class mail)
Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party)

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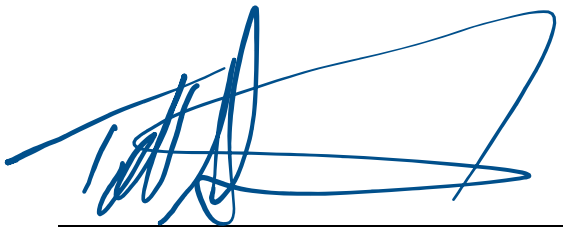

DATED: October 13, 2020

Todd S. Stewart

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY BRIEF OF INTERSTATE GAS SUPPLY, INC., SHIPLEY CHOICE LLC, NRG ENERGY, INC., VISTRA CORP., ENGIE RESOURCES LLC, WGL ENERGY SERVICES, INC., AND DIRECT ENERGY SERVICES, LLC

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

I. INTRODUCTION

As described in the EGS Parties' Main Brief, Duquesne Light Company's ("Duquesne" or the "Company") proposed DSP plan was generally acceptable – but for a few rather obvious shortcomings. These shortcomings were the subject of the testimony of the EGS Parties' witness, Mr. Kallaher. The most dramatic shortcoming of the petition was the filing itself, in that it failed entirely to address the recent FERC Orders on the Minimum Offer Price Rule ("MOPR") and the implications for default service in the Company's service territory, particularly in light of the proposed Solar Power Purchase Agreement ("Solar PPA") RFP. Other problematic issues were the two new proposed programs: the Electric Vehicle Time-Of-Use ("EVTOU") rate and the Solar PPA, both of which could have profound impacts on competitive markets and are not supported by sufficient evidence of need or efficacy in the broader market. The EVTOU program is the subject of a Stipulation that would allow it to become effective, which should be summarily denied as the program is without any basis. Duquesne did renew and improve its Standard Offer Program ("SOP") and sought to end its obvious violation of the law by proposing a program to allow customers enrolled in its Customer Assistance Program ("CAP") to shop for electricity in a controlled, rate-capped program. With a few modifications, the EGS Parties support the approval of both proposals. However, both of these programs were the subject of a Stipulation which should be denied at least in part due to its intention to delay not only the implementation, but even the refiling of a CAP shopping program until PPL's proposal to end CAP shopping – made in its DSP program that is currently before an ALJ – is finally resolved. There simply is no basis for the delay; the issue has been briefed in this case and is ready for approval. Finally, Duquesne continues to resist the need to end the obvious and illegal discrimination in its provision of billing service to customers, and should be required to implement a non-bypassable surcharge to recover

Network Integrated Transmission Service ("NITS") charges from all customers on the same basis. With the adjustments discussed above, Duquesne's DSP plan can be approved.

II. SUMMARY OF THE REPLY ARGUMENT

As discussed in the EGS Parties' Main Brief, NITS collection is a distribution function, it is a non-market-based charge, and it is assessed for all customers on the same basis. The difference is how it is collected; for default service customers directly from the customers and for shopping customers from their EGS. What the EGS Parties have proposed in this case is that Duquesne be required to end the discriminatory treatment of shopping customers, to eliminate the harms discussed by Mr. Kallaher in his testimony (EGS Parties St. No. 1, 33:15-34:12), and to bill and collect NITS charges from all customers through a surcharge. The Public Utility Code, 66 Pa.C.S. §§ 1502 and 2804(6) prohibit discrimination in the provision of billing services[1] yet discrimination is what is happening here. Duquesne provides an advantage of reconciled recovery of NITS charges for default service customers while refusing to provide the same sort of bill certainty for customers of suppliers. This differential and discriminatory treatment must end.

The EV TOU proposal would put Duquesne in the business of providing what is ostensibly a competitive rate offering, since it is not default service, nor could it be (*see* 52 Pa. Code § 54.187(c)). The primary issue is that Duquesne is staking out a space in the market, with all its advantages, for utility service, without even considering much less waiting to see if the competitive market would fill the gap, when EV penetration is to the point where such a rate is viable. The EGS Parties' witness is concerned that with the utility presence in the market, it will be extremely difficult for additional parties to enter. (EGS Parties' St. No. 1, 21:19-22:14). The Code requires

[1] *Pa. PUC et al v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2018-2647577, Opinion and Order (Order entered December 6, 2018) ("*Columbia*").

the Commission to monitor the market for supply and distribution of electricity and to prevent anticompetitive conduct and exercise of market power.[2] This is one of those instances where the ability of a utility to provide a rate or service, because it can use ratepayer money, must be examined in the light of whether a utility *should* engage in that activity due to potential negative market impacts. The EGS Parties believe that the answer here is in restraint.

The Solar PPA proposed by Duquesne in this matter appears to be almost entirely driven by Comments offered by Chairman Dutrieuille and Vice Chairman Sweet in recent years when voting on prior default service plans. (Duquesne Main Brief at 25 to 27). Those comments were primarily directed at the lack of long-term contracts in various utilities' default service plans, and only mentioned in AEC contracts in passing. Rather than adjust its energy procurement portfolio, however, Duquesne took the "if a little is good, more must be better" approach and decided to seek pre-approval of a long-term contract for AECs, energy, and possibly capacity and ancillary services as well. The plan is to sell the energy (and ostensibly the capacity and ancillaries) into the wholesale market to offset default service costs. This venture would put Duquesne back in the generation business and put default service customers on the hook for losses associated with those sales of energy, etc., on their behalf. (EGS Parties' St. No. 1, 24:15-25:11). While it is true that the Public Utility Code authorizes default service providers to enter into long-term contracts, and short term contracts to purchase energy, there is no authorization to engage in such buy and re-sell schemes with customers being made responsible for any losses. If Duquesne were to have proposed to engage in such contracts with shareholder money, that would be fine. (EGS Parties' St. No. 1, 23:6-23:21). It did not. Duquesne's proposal must be rejected as not just being illegal, but also bad policy.

[2] 66 Pa.C.S. § 2811(a).

As recently as April of this year, the Federal Energy Regulatory Commission ("FERC") issued orders addressing the Minimum Offer Price Rule that seeks to address the impacts of increasing interconnection with renewable resources and the state subsidies that tend to encourage them. (EGS Parties' St. No. 1, 13:13-14:1). As described by Mr. Kallaher and recited in the EGS Parties' Main Brief, these Orders appear to suggest that state-approved default service plans could provide a subsidy and could require providers to be subject to the MOPR rules. Such an outcome would not be favorable for Duquesne, and yet Duquesne's proposal to include the Solar PPA only increases the likelihood of a negative MOPR outcome. Duquesne contends that the FERC Orders are not final and so there is not yet a requirement. To address this issue, Mr. Kallaher suggested that Duquesne be required to prepare and file a MOPR compliance filing explaining why they do not think the rule should apply. While Duquesne does not agree, it nonetheless concedes that it will file a report if required to do so. The Commission should make Duquesne do so.

With the exception of falling short on a few additional suggestions by the EGS Parties, the as-filed SOP and CAP shopping programs were acceptable and should be approved. It does not appear that any party opposes the SOP and it should be approved with the modification suggested by Mr. Kallaher that would have new and moving customers begin service on the SOP. Duquesne suggests that doing so would deprive those customers of their "right to default service" which is ironic and also incorrect, since Duquesne has been depriving CAP customers of their right to shop for years, and has agreed with other parties to delay it even further in a stipulation under consideration here, a stipulation that should be rejected in that part. Duquesne has also proposed a CAP shopping program in this case that would allow CAP customers to participate in CAP compliant contracts, i.e., those that are at or below the PTC for the entirety of the contract, so as to eliminate any chance that CAP customers pay more than the Price to Compare ("PTC").

However, there was a stumbling block – CAUSE PA sought to impose a condition that would completely and definitively abrogate the rights of suppliers and CAP customers. Namely, that customers on contracts with suppliers would have those contracts terminated by regulatory fiat, as a condition of that customer participating in CAP. As discussed in the EGS Parties' Main Brief (pp. 9-11), this proposal would impact all Suppliers, those that signed-up to participate as CAP suppliers and those that did not. Terminating existing contracts would constitute a government action negatively impacting existing contracts and is unconstitutional as discussed in the EGS Parties' Main Brief. Moreover, terminating valid contracts by fiat otherwise would constitute a taking regarding the value of the contract to suppliers who did not volunteer to participate in the program and agree to the rules. The Commonwealth Court has made it clear that CAP rules can only apply to those who agree to participate in the program[3] and CAUSE-PA's arguments to the contrary are not availing. Moreover, suggesting that the alleged "problem" of customers being bound by lawful contracts with suppliers when they become CAP eligible is sufficient to abrogate entirely the statutory right of all customers to choose their supplier, is beyond the pale – the Commonwealth Court's Orders have permitted "bending" of competition to restrict unfettered shopping but have not even considered breaking competition by defying the explicit requirement of the statute that all customers must be allowed to shop.[4] Accordingly, Duquesne's proposed CAP shopping program must be approved, as submitted, and cannot allow for termination of existing contracts when customers become CAP eligible.

[3] Co*alition for Affordable Utility Services and Energy Efficiency v. Pa. P.U.C.*, 120 A.3d 1087 (Pa. Cmwlth. 2015); *Retail Energy Supply Assoc. v. Pa. P.U.C.*, 185 A.3d 1206 (Pa. Cmwlth. 2018).
[4] 66 Pa.C.S. § 2806(a).

III. REPLY ARGUMENT

A. NITS – Duquesne Should be Required to Implement a Non-Bypassable Charge to Recover Network Integrated Transmission Service ("NITS") Charges from all Customers on an Equal and Non-Discriminatory Basis.

It is absolutely clear from this record that Duquesne does not collect NITS charges from default service customers in the same manner as shopping customers are required to pay. (EGS St. No. 1, 26:15-22). It also is clear that this differential treatment imposes more risk on shopping customers and their suppliers and can cause the rates charged to these customers to be higher than would be necessary if they were afforded the same billing treatment. (EGS Parties' St. No. 1, 26:23-27:3). NITS are a non-market based charge that all customers pay, the charge is calculated the same way for all customers, the only difference is that for shopping customers the bill goes to the supplier and for non-shopping (default service customers) the bill goes to Duquesne. The EGS Parties contend that this arrangement is basic discrimination that is prohibited by the Public Utility Code, 66 Pa.C.S. § 1502 and 2804(6). The Commission recently held that billing service is public utility service and that these anti-discrimination provisions are enforceable against utilities that provide an advantage to one party over another when providing billing service.[5] Accordingly, the EGS Parties contend that Duquesne must be required to end the discrimination and provide the same billing services for suppliers and their customers that it does for its default service customers and bill shopping customers for NITS.

Duquesne has argued that requiring it to bill for NITS for Suppliers' customers would amount to re-bundling of the services, but this argument is belied by the fact that the actual NITS charge is not based on whether a customer shops. Ultimately it is customers who pay this charge,

[5] *Columbia.*

the EGS Parties are simply aiming to reduce the risk to shopping customers of the volatile and sudden imposition of the charges that PJM appears to be imposing in more recent years. (EGS Parties St. No. 1, 31:12-21). Customer responsibility for these charges via their supply charge on their consolidated bill, which are almost impossible to predict or influence means customers are likely to pay a higher rate than would otherwise be needed, to account for the fact that Suppliers cannot continually absorb shortfalls that come from NITS rate adjustments and so they need to protect themselves in the contract, while Duquesne has the luxury of reconciled rates that allow it to recover dollar for dollar what the customer owes, over time. (EGS Parties' St. No. 1, 31:1-6). The suppliers simply seek the same arrangement.

Duquesne also contends, without any support, that there is a chance that customers will pay for the NITS charges twice, since suppliers may have NITS recovery built into rates. The suggestion that suppliers would intentionally or even negligently overcharge their clients is contemptible. There are simple means to ensure that charges are collected only once, and only by the party supposed to collect them, and while a phase-in might be required, there is nothing insurmountable about implementing such a change. This argument falls into the same category as another "make-weight" argument Duquesne adds; that they have always charged NITS this way. Simply put, these arguments are without factual or legal merit. Customers will not pay twice for NITS and the fact that Duquesne has always refused to collect NITS charges from shopping customers does not mean it is right.

Not only does having the utility, in this case Duquesne, collect NITS end the discrimination in its billing practice, it also makes shopping easier for customers, particularly larger customers. The Commission's "fixed means fixed" rule makes it impossible for suppliers offering longer term fixed price contracts to residential customers – because the risk of NITS changes would need to

be passed on to customers in the form of higher prices, as Mr. Kallaher made clear. (EGS Parties' St. No. 1, 31:3-6). If NITS were not a supplier charge, but billed as the pass-through item that they are, residential customers would see longer term fixed price offers and commercial customers would find it easier to shop, not needing to determine which contracts included pass-through for NITS and which did not, and to try to weigh the risks and possible benefits of each. While it may be true, as other parties may suggest, that very large customers may wish to contractually assign the risk of NITS changes, there is no reason those customers could be not allowed to continue to be responsible for paying their NITS charges through their supplier, if they knowingly accepted that option and such an option was found to be appropriate.

The short answer is that NITS collection makes competition riskier for customers and suppliers. Duquesne eliminates that risk for default service customers and refuses to eliminate the risk for shopping customers, even though it is a mere billing service. Duquesne offers only "this is how we've always done it" arguments as to why it should not be required to end the discrimination and do what is right. Duquesne should be required to recover NITS charges from all customers on a non-bypassable surcharge.

B. Neither Duquesne's Proposed EV TOU Rate, Nor the Associated Stipulation Should Be Approved.

Duquesne has proposed an electric vehicle time of use rate. The intention is to "promote" use of electric vehicles by allowing owners to charge those vehicles during "off-peak" periods when energy costs are lower. At this point in time, penetration of plug in electric vehicles is relatively low and so providing such a rate is presumably intended to create an incentive for potential customers in the Company's service territory. Mr. Kallaher put it this way:

> If anything, Ms. Harris appears to envision Duquesne's EV-TOU rate as part of a return to the old days of monopoly utility integrated resource planning, in which all customers are utility customers and the only options available in the market are

> those provided by the monopoly utility. This view finds its expression in Ms. Harris's recommendation that the EV-TOU rate be made "a standard part of the Company's Default Service Plan. (EGS Parties St. No. 1-R, 8:7-12).

Mr. Kallaher expresses a valid concern regarding the expansion to yet another default service rate offering, once which is not without cost to other ratepayers and how this appears to violate the Commission's regulations (52 Pa. Code § 54.187(c)) on default service rates. (EGS Parties St. No. 1-R, 8:7-12). At bottom, there is no expressed need for the new rate offering, it can and will harm the ability of competitors to offer similar rates in the future due to the crowding out effect, and it is an illegal addition to default service. This offering should not be permitted.

C. Duquesne's Proposed Solar PPA Should be Rejected.

Solar Alternative Energy Credits ("SAEC") are required of every EDC and EGS in Pennsylvania in proportion to their sales of electricity at retail.[6] The percentage required continues to rise periodically until the requirement effectively sunsets, unless renewed.[7] What that means for Duquesne, and EGSs, is that they must either generate the needed SAECs or purchase them. Duquesne has in this case proposed that it be permitted to enter into a long term contract, greater than 4 years, and less than 20, for SAECs to provide a stable source of credits over time, assuming the statutory need for them continues. If the proposal had stopped there, the EGS Parties may not have given it much, if any, attention. (EGS Parties St. No. 1, 22:19-23:3). However, Duquesne chose to take this plan a few steps further, by adding energy, capacity and ancillary services to the list of items on its PPA shopping list. Coupled with the proposed possibility of a term reaching out 20 years when it is not even known if the obligation to procure SAECs will exist at such a late date, and the proposal to include energy, capacity and ancillaries, and to propose not to use these

[6] 72 P.S. § 1648.1, *et seq*.
[7] *Id.*

products for default service, but rather to sell them at wholesale, with customers being held responsible for losses, goes beyond what the EGS Parties consider reasonable. As discussed in the EGS Parties' Main Brief, this sort of arrangement is not authorized in the statute, could harm the competitive solar market in western Pennsylvania, while a long term contract for SAECs could easily outlive the need for such a contract for a variety of reasons. (EGS Parties' Main Brief at 4-7).

Duquesne's main argument for why this procurement should be authorized is that the Chairman and Vice Chairman of the Commission noted in their dissent in Duquesne's last DSP case, that Duquesne's procurement plan lacked any long-term energy contracts. (Duquesne Main Brief at pp. 25-26). Such reliance is misplaced for a few reasons. First, even a quick read of the Chairman and Vice-Chairman's dissent makes it clear that they were speaking about energy contracts. To the extent that Duquesne intended that adding energy to this procurement would address that concern, they missed the mark by a wide margin. The Chairman and Vice Chairman were talking about long-term energy contracts for which customers would actually get the benefit of the energy, not what is in essence a financial hedge for which the customers may or may not receive any benefit. There simply is no basis in law to assume any sort of obligation for any default service provider to engage in long term PPA's for SAECs, let alone for energy, capacity and ancillary services on a speculative basis versus the market. While the Chairman and Vice Chairman's concerns may be valid, they simply cannot overcome the lack of legal authorization[8] for speculative energy contracts with customers being placed on the hook. In short, the long-term PPA alone may be acceptable, but the addition of energy, capacity and ancillary services, goes well beyond what is authorized and should be rejected

[8] 66 Pa.C.S. § 2807(e).

D. Duquesne Should be Required to Submit a MOPR Compliance Filing.

As argued in the EGS Parties Main Brief, the FERC is on the verge of final requirements that could impact Duquesne's default service plan in profound ways if it remains on its present trajectory. (EGS Parties' St. No. 1, 13:13-14:12). Mr. Kallaher recommended that Duquesne be required to submit a compliance filing, detailing how it should not be considered as providing a subsidy and why its Solar PPL would similarly not be a subsidized resource. (*Id*.) The EGS Parties are not arguing that the MOPR should apply to its procurements, but given the substantial risk of that outcome, rather suggest that Duquesne explain why they should not. Apart from suggesting that the Orders in question are not yet final, and also suggesting that if required, Duquesne would submit what ever filing was required, Duquesne did not substantially address these arguments. For all the reasons stated in its testimony, and Main Brief, the EGS Parties hereby renew the request that Duquesne file a compliance filing to avoid the potential harm id the MOPR were to be applied to it and its vendors.

E. The Standard Offer Program ("SOP") Should be Approved with RESA's Proposed Modifications.

The EGS Parties support the Stipulation filed September 30, 2020, that agrees to allow Duquesne's proposed SOP to become effective. The EGS Parties have proposed a modification to that proposal to make it more robust and more effective at stimulating shopping. Mr. Kallaher proposed that all new and moving customers be placed on SOP service rather than automatically on default service. Customers would be able to switch away without penalty but would receive a price at 7% off the price to compare for an entire year as a benefit. Several parties oppose this proposal on the grounds that customers have a "right to default service" and that the EGS Parties proposal would effectively eradicate default service. Neither of these notions has any merit. First,

unlike the right of a customer to choose a competitive supplier,[9] the Public Utility Code contains no such express right to default service for customers. Instead, default service is provided as an "obligation" upon the default service provider.[10] And in this case, if a customer were to actually choose to return to default service, after being assigned a supplier, they would have the ability to do so. Nowhere in the "consumer protection" section of the Competition Act does it ever mention default service as such a protection.[11] If one reads the entire Competition Act, it becomes clear that default service was intended to be transitory, a means to reach the end where all customers are shopping and default service is presumed to be temporary, not the place where more than half the customers continue to receive their energy almost 25 years after the act was made law. (EGS Parties St. No 1, 15:2-16-17). Mr. Kallaher made it clear that his proposal was intended to move more customers into the market to encourage the need for default service to be reduced over time so the goals of the Competition Act can be realized.

F. The Proposed CAP Shopping Program Should be Approved and the Stipulation Delaying it Should be Rejected as not in the Public Interest.

The CAP shopping program is controversial for two reasons. First, in recognition of its obligation to allow all customers to shop for a supplier of their choosing, Duquesne proposed a new program in this Default Service plan. The plan would have protected shopping customers by permitting them to only engage in CAP Compliant plans that would remain at 7% less than the default service rate. But certain parties, CAUSE-PA and the Office of Consumer Advocate primarily, argue that this does not go far enough and that the only way they can agree to a CAP program is if every customer, upon becoming a CAP eligible customer, has any existing contract

[9] 66 Pa.C.S. § 2806(a).
[10] 66 Pa.C.S. § 2807(e).
[11] 66 Pa.C.S. § 2807(d).

with any supplier immediately terminated. The basis for this insistence is the speculation that a large percentage of those customers are likely to be parties to a contract at a rate that is higher than the PTC and that allowing them to remain as competitive customers on that contract would cause their CAP funds to exhaust sooner and would require other ratepayers to pay more to support them. These speculative concerns cannot overcome the very real constitutional and other problems such a scheme would entail. These are discussed at length in the EGS Parties' Main Brief (pp. 9-11). The bottom line is that automatically abrogating contracts for suppliers that have not agreed to participate in the CAP program and to be subject to its rules, violates their constitutional rights, and is government interference with an existing legal contract. Clearly the Competition Act makes choosing one's own supplier a legal act,[12] and so abrogating a legal contract without an express legal authorization to the contrary, would interfere with the obligation of contracts and would be a taking of the value of that contract without compensation.[13] Moreover, the two Commonwealth Court decisions on which CAUSE PA relies makes it clear that imposition of CAP rules is possible only because it is a voluntary program.[14] The Court has never authorized termination of existing contracts as a legal price to pay for a CAP program. Simply put there is no authority for what CAUSE PA wants, in the form of automatic contract termination and the notion must be dismissed as the illegal act that it is. It appears that CAUSE PA's position has now become that if it can't have a valid contracts rendered void by a customer becoming a CAP customer that the right to

[12] 66 Pa.C.S. § 2806(a).
[13] UNITED STATES CONSTITUTION, Art. I, Sect. 10; UNITED STATES CONSTITUTION, 5TH AMENDMENT; PENNSYLVANIA CONSTITUTION, ART. I, Sect. 17.
[14] Co*alition for Affordable Utility Services and Energy Efficiency v. Pa. P.U.C.*, 120 A.3d 1087 (Pa. Cmwlth. 2015); *Retail Energy Supply Assoc. v. Pa. P.U.C.*, 185 A.3d 1206 (Pa. Cmwlth. 2018).

shop should be eliminated for CAP customers in its entirety. Without a change to the statute such an outcome is not legally possible.[15]

As a consequence, Cause PA is seeking to delay the implementation of what otherwise is a legal CAP program, simply because it raised the same arguments in a different case, PPL's DSP, and it wants to wait and see what the Commission does there before allowing Duquesne customers the ability to exercise their right to shop which is now being deprived. That is the net impact of the so-called stipulation, which should be given no weight in this regard. There is nothing to be gained by delay. If the Commission were to agree to PPL and CAUSE PA's arguments in PPL and violate the Choice Act, appeals will follow, and it would likely come to the same conclusion here. Such an outcome seems unlikely, based on the law, however. The more likely outcome would be for the Commission to reject PPL's proposed elimination of CAP Shopping, and create a Commission sponsored process to establish a CAP shopping program, much as it did for FirstEnergy. Once that program is approved, it could be implemented. There is no reason, however, for Duquesne to wait since it already has proposed a workable program that could be approved as submitted thus eliminating the need for any unneeded delay. For these reasons alone the stipulation should be rejected insomuch as it would delay approval and implementation of the CAP shopping.

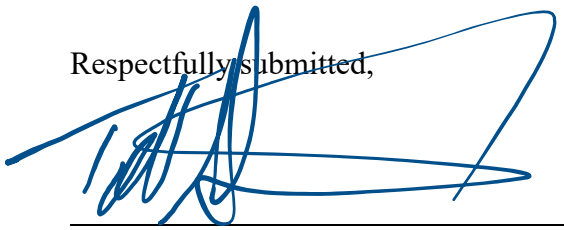
IV. CONCLUSION

As discussed more completely in their Main Brief, the EGS Parties generally support Duquesne's filing. The exceptions as noted herein, are worthy of being addressed and either modified or rejected out of hand. Any option that deprives customers of the ability to fairly choose a supplier, such as Cause PA's attempts to stifle a CAP shopping program, must be rejected, while

[15] 66 Pa.C.S. § 2806(a).

conversely, the EGS Parties' suggestions for making shopping more robust via an improved SOP program, should be approved. Programs that will negatively impact the competitive market generally, and which will add risk for customers such as the Solar PPA and EV TOU programs should also be rejected. The goal is not to perpetuate the misguided efforts at justifying anti-competitive actions on the grounds that the rates being seen in the market are higher than the default service rate. This comparison simply makes no sense methodologically and was never intended by the Competition Act. The default service rate is not a competitive offering, it is a subsidized, marginal cost of wholesale energy rate, that has no business being compared to an "all-in" retail rate. (EGS Parties St. No. 1, 6:19-7:16). This false comparison is at the root of the anti-competitive aspects of other parties' approaches to this case and must be corrected.

Respectfully submitted,



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