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2008 APR 23 PM 3:08

From: Vernon J Edwards [vedwards@duqlight.com]
Sent: Wednesday, April 16, 2008 1:10 PM
To: Smith, Michael; Burket, Patricia; Page, Cyndi
Cc: Joyce A Leya; Gary J Miller
Subject: Proposed Rulemaking Comments, Univ. Svcs and Energy Conservation, Docket #L-00070186

INDEPENDENT REGULATORY
REVIEW COMMISSION

Mr. Smith, Ms. Burket, and Ms. Page,

Attached is Duquesne Light's comments on the above proposed rulemaking related to Universal Service and Energy Conservation Reporting Requirements, Docketed at L-00070186. As directed, we have also filed an original and 15 copies with Secretary McNulty.

If you have any questions regarding the information provided, please contact me at (412) 393-3662.

Sincerely,

Vern Edwards

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Re: Proposed Rulemaking Related to Universal Service
and Energy Conservation Reporting Requirements, 52
Pa. Code §§ 54.71-54.78 (electric), and Customer
Assistance Programs §§ 76.1-76.6

Docket No. L-00070186

**COMMENTS OF
DUQUESNE LIGHT COMPANY**

Duquesne Light Company hereby submits these comments in response to the September 4, 2007 Commission Order at Docket No. L-00070186, requesting comments on the rulemaking to revise its regulations for Universal Service and Energy Conservation Reporting Requirements, 52 Pa Code §§ 54.71-54.78 (electric) and §§ 62.1-62.8 (natural gas) and to add a Chapter entitled Customer Assistance Programs at §§ 76.1-76.2. The Order was published in the PA Bulletin on February 9, 2008 with comments to be filed by April 9, 2008. On April 4, 2008, an extension for filing comments was granted until April 14, 2008.

Introduction

The Electricity Generation Customer Choice and Competitive Act (Act), 66 Pa. §§ 2801-2812, became effective on January 1, 1997. Although the primary purpose of that legislation was to increase competition in electricity generation markets, it also preserved the protections, policies, and services that assisted low-income customers in being able to afford electric service.

Duquesne Light Company's universal service program consists of numerous components available to low-income and payment-troubled customers, including the Customer Assistance Program (CAP), Smart Comfort (Duquesne's Low Income Usage

Reduction Program), the Customer Assistance & Referral Evaluation Service (CARES) program, Hardship Fund, and Low-Income Home Energy Assistance Program (LIHEAP). Together, these programs help customers experiencing payment hardships to manage their electric bills by providing them with financial assistance and information, resources and encouragement through referrals to community assistance programs, social service agencies, and government offices.

The Act, and Duquesne's universal programs, provide a valuable safety net for our low income customers in need balanced with interests of the residential customers who pay for those programs. Duquesne Light understands its responsibility to provide safe and affordable energy to all of its customers, not just our low-income customers. We feel it is important to note and comment on the obvious impact this expense has on each of our non low-income customers, and restate the responsibility we have to control our costs and maintain affordable rates for **all** residential customers.

Duquesne Light has reviewed the Comments filed by the Energy Association of Pennsylvania (EAPA) in this proceeding and fully supports those Comments. While the EAPA's comments are all encompassing and address our concerns, Duquesne desires to specifically address several matters that are of particular concern to it. Our specific comments on the proposed Rulemaking changes are set forth below.

§ 54.72 Definition of Confirmed low income residential account – Self Certification.

Duquesne respectfully suggests requiring positive verification of income prior to program participation is not unreasonable, and placing the requirement to verify household income prior to program participation into regulations does not place an

undue burden on the customer. With that, the most effective controls are in place to insure that both the program participants are only those customers who need them, and that unjustifiable costs are not placed on the customers who pay for these programs.

As it relates to potential enhancements to the enrollment process, Duquesne wants to take this opportunity to reiterate the customer benefit in the CAP interview/enrollment process. That interview process is key and critical to educate and assist customers participate in numerous other programs, which would most likely be lost in any automated enrollment process or an enrollment process that does not require verification of eligibility. We are concerned that any effort to reduce or eliminate the face-to-face exchange in today's enrollment process would be at the expense of customers not being made aware of all assistance programs available to them. Duquesne would welcome the opportunity to work with the Commission, or others, to develop other pro-active outreach activities in an attempt to reach customers who may not have actually contacted the company or received other program referrals.

Duquesne would recommend that in Section 54.72 under the definition of a "Confirmed low income residential account", that the newly proposed phrase, "self-certification by the customer" be deleted.

§ 54.72 Definition of the Term "Low Income Customer"

This proposed rulemaking makes a subtly worded, but potentially dramatic, change in the definition or description of the term "low income" by defining income to "not include the value of food stamps or other non-cash income." Duquesne Light respectfully disagrees with the requirement to exclude food stamps and other non-cash income in determinations of universal service program eligibility and when making a

determination that that a customer is "low income", and suggests this new language should be stricken from the final rulemaking as further explained below.

Duquesne believes that well established case history exists that shows determinations of a customer's household "ability to pay" has been used to establish payment agreement repayment terms for all income-level delinquent customers (including company and PUC established payment agreement terms).

Duquesne Light feels that an accurate determination of a customer's "ability to pay" for electric service must include consideration and inclusion of all household income, including non-cash income.

Similarly, this same provision also excludes the value of food stamps from considerations of gross income. It is generally understood that this supplemental "income" is for use by low income customers to offset expenses for a basic life necessity and frees up cash resources for other household expenses, namely expenses including the cost of utility service. Simply stated, every food stamp "dollar" received and used by a customer is a dollar in cash that does not need to come out of the household budget, thereby increasing the customer's "ability to pay".

To Duquesne, foods stamps are significant supplemental income designated for purchase of certain food and necessity items. Duquesne suggests that food stamps, while admittedly not cash, should carry the same value as cash in determining the customer's ability to pay for utility service, and subsequently must be included in the household's gross income determinations.

Duquesne is also concerned of the potential allegations of discrimination that may come from regulations that provide allowances for food items for one customer

segment (those receiving food stamps) and not for another (those who are not receiving food stamps). All customers have monthly expenditures for food items, regardless of income level or ability to pay. We believe that fair and equal treatment for all customers can only result if total household income (including food stamps and all other non-cash income) is obtained and considered when making determinations on the customer's ability to pay for utility service.

Duquesne recommends that the Commission strike the language in §54.72 definitions of Low Income Customer that exempts the value of food stamps and other non-cash income from gross household income determinations.

§54.72; §76.2 Use of Term "Payment Troubled"

Duquesne noted the term "payment troubled" has been stricken in the CAP (Customer Assistance Program) definitions under §54.72 and §76.2. Duquesne feels that the term "payment troubled" must be included to clearly identify the customer segment the Customer Assistance Programs' protections and services were intended to safeguard, specifically customers in need of assistance and potentially facing loss of service.

Although Duquesne has expanded enrollment of low-income customers in the CAP program from 15,075 customers in 2002 to 27,566 in 2007, we also have many low-income families that live well within their means and pay their bills each month. Many of those customers have never been at risk of losing their service due to non-payment termination. We do not support placing customers who are paying their bill in full each month, and who are not at risk of having their service terminated due to nonpayment, on a reduced payment obligation such as CAP. Duquesne Light feels by

focusing our Customer Assistance Program on our low income **and** payment-troubled customers, we are able to offer the Act's intended protections and services to those customers in need, balanced with the obligation we have to responsibly control costs to the benefit of all customers.

Duquesne feels that removing "payment troubled" from the Customer Assistance Program definitions in this rulemaking, and basing CAP eligibility and participation solely on household income, would significantly increase the number of customers eligible to participate in our CAP program by opening eligibility to a customer segment not having difficulty paying their utility bills. Subsequently, the increased number of enrolled customers would significantly increase the costs associated with managing those programs, resulting in an unreasonable financial burden on the residential customers paying for those programs.

Duquesne believes offering these low-income programs without consideration of the customer need appears to contradict the Commission's prior intent to "balance the interests of customers who benefit from the programs with the interests of the customers who pay for the programs." See *Final Investigatory Order on Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms (Final Investigatory Order)*, entered on December 18, 2006, at Docket No. M-0051923, pp. 6-7.

We feel that being payment troubled should be a critical program eligibility component. Duquesne Light's low-income programs have been designed to offer financial assistance and energy reduction programs to those customers based on that need, not based solely on their household income. We have listed being "payment

troubled” as eligibility criteria in two of the four universal program components (CAP and CARES) in Duquesne’s approved Universal Service and Energy Conservation Plan.

See Duquesne Light Company Universal Service and Energy Conservation Plan 2008-2010 Order, entered on June 5, 2007, at Docket M-00072015, Table 2, pp 7.

Duquesne Light feels that this rulemaking should continue defining Customer Assistance Programs at §54.72 as before, defined as “A plan implemented by a distribution company for the purpose of providing universal service and energy conservation services to low income, payment troubled, customers.”

§54.74 (4) Surcharge

Duquesne Light acknowledges that there is more than one PUC approved method to permit “full recovery” of CAP costs. The options proposed for seeking recovery of these expenses are either program cost recovery inclusion in the utility’s base rates, a recovery of these costs through a customer surcharge that is either reconciled periodically to recover the actual level of costs or adjusted prospectively on a periodic basis to track changes in costs, or a combination of both. Duquesne Light currently recovers universal service costs through base rate recovery.

Duquesne believes what remains most important is that our universal service programs can be shown to be properly designed and funded, that expenses related to managing these programs be determined to be reasonably incurred and fully recoverable, and the Commission adequately determine the rate impact of the Commission’s decisions on the paying customers who are not participating in the programs.

Duquesne believes that both of these cost recovery mechanisms, whether base rate recovery or tariff surcharge, allow these all to happen.

§ 76.4(4) Recovery of costs of customer assistance programs

Duquesne agrees and supports the Energy Association's comments regarding this proposed regulation, and feels the language proposing to add the phrase, "The Commission will consider the timeliness of a distribution company's collection activities in evaluating the reasonableness of costs claimed for recovery" is somewhat confusing, vague, and potentially in conflict with other Commission proceedings regarding customers participating in the CAP program and termination of their service. While fully understanding the importance that timely collection action has on managing delinquent revenue, Duquesne's practice has been to take "timely collection activity" on these customers that includes activities such as delinquent bill print reminder messages, outbound call campaigns, and other related collection efforts in addition to the traditional nonpayment termination activities.

Duquesne Light is concerned that regulatory language that is non-specific but requires timely collection action **and** states failure to do so may place recovery of program expenses at risk, (especially to the customer segment verified to be most in need of assistance paying their bills), sends the wrong message.

Duquesne respectfully suggests that the proposed language be revised to provide direction and sufficient clarity on the regulatory intent of "timely collections" so we may continue to insure that any customer in need who is willing to work with us will not be without electric service, and while doing so, not place program cost recovery at risk.

Duquesne suggests rewording the language to state, "The Commission may consider whether a distribution company is trying to collect its bad debt from these customers, keeping in mind the general desire to maintain utility service to low income customers." Alternatively, a second option would be to just delete the language that the Commission will consider the timeliness of collection activity for these customers.

§ 76.5. Default provisions for failure to comply with program rules.

Duquesne Light generally agrees with the proposed rulemaking's default provisions from Customer Assistance Programs, and recommends one additional default provision: "The customer's failure to choose the generation supplier offering the lowest overall cost".

Duquesne's Customer Assistance Program exists to help low income families maintain affordable electric service, and we believe the customer plays an integral participatory role in assisting with this effort. In Duquesne's approved Universal Service and Energy Conservation Plan, a default provision exists that states participants in the CAP program must choose the generation supplier offering the lowest cost.

Today, Customer Assistance Program customers selecting Duquesne's POLR generation receive a substantial discount in their overall payments making the customers bill lower than with any other current generation provider. We feel it would contradict the Customer Assistance Program's affordability goals to allow customers to participate in the reduced payment program, but yet permit customers to choose a higher priced supplier that would offset or negate monthly savings they had realized through program participation.

While fully maintaining the customer's right to choose their electric generation provider, Duquesne feels that any customer participating in a reduced payment program, such as CAP, should have the responsibility and requirement to choose the generation supplier offering the lowest cost or be defaulted from the program.

Duquesne Light suggests adding a program default provision that requires customers participating in the Customers Assistance Program to choose the generation supplier of least cost.

§ 76.6. Restoration of service after termination for nonpayment of CAP bills

Duquesne generally concurs with the EAPA's comment on section 76.6 that points out the proposed rule creates a conflict in reconnection. Additionally, Duquesne notes that its CAP program gives special consideration to active CAP customers when it comes to restoration of service by permitting them to pay the applicable reconnect fee and only any missed payments from the CAP program. Duquesne does not cancel their participation in the program, or require the customer pay the entire balance (or a percentage of their balance) as permitted in 66 Pa. C.S. §1407 once they are shut off.

While the proposed regulations state 66 Pa. C.S. §1407 would govern overall restoration of service, Duquesne believes that it is more financially advantageous to the customer to require a restoration amount equal to the missed CAP payments (plus the applicable reconnection fee) and once paid and restored, permit the customer to continue with the benefits in their original CAP program agreement. This practice also benefits Duquesne by eliminating the administration work associated with the frequent "churning" of customers in and out of the program because of missed or late payments.

Duquesne suggests if CAP participating customers were afforded the ability to spread their restoration amount over a 24 month repayment period, as stated in 66 Pa. C.S. § 1407 (c)(2)(iii), they would be receiving a “payment agreement” for a “payment agreement.” For example, in Duquesne’s program, a CAP customer’s payment agreement incorporates arrears that were already amortized. If a CAP customer falls behind on the payment agreement terms, 66 Pa. C.S. § 1407 (c)(2)(iii) is requiring a CAP customer to re-amortize on top of an agreed upon amortized amount. Not only is this situation problematic in an administrative sense, but also is inconsistent with 66 Pa. C.S. § 1405 (c), as the EAPA’s comment clearly demonstrated.

Duquesne agrees with the proposed rulemaking at §76.6, with the exception of restoration amounts. The customer needs to pay all missed payments from a payment agreement and not have a second payment agreement for those sums already agreed to be paid. Therefore, Duquesne recommends the proposed regulations under §76.6 read: “When a CAP Customer’s service has been terminated for nonpayment, restoration of service shall be governed by the PUC approved Customer Assistance Program rules for restoration of service, not 66 Pa.C.S. §1407(c)(2)(iii).

Changes in this Policy Should not Affect Approved Plans

The Commission should make clear in its final rulemaking order that any changes to the CAP Policy should be prospective in nature and should not impact already-approved CAP Plans of individual utilities. To alter existing Universal Service Programs that have already been reviewed, approved, and implemented will disrupt ongoing services and, Duquesne believes, cause other issues to arise that cannot be addressed due to implementation of the approved plan. Recently, in its POLR default

service rules, the Commission made it clear that the new rules would not apply to existing plans nor plans presently under consideration before the Commission. That position should be adopted by the Commission in this proceeding as well, and for the same reasons.

Conclusion

As with the comments Duquesne filed to the proposed changes to the CAP policy statement, Duquesne Light Company recommends that the proposed rulemaking should offer low-income programs to those who can demonstrate the need, and connect those low-income programs to energy conservation and usage reduction programs, which serves all customers.

Duquesne requests that the Commission consider its comments filed herein and the Energy Association's comments, which we fully support. Also, any changes to the Commission Regulations should not affect existing approved plans being implemented or those plans under consideration for approval at the time of the effective date of the regulatory changes.

Duquesne Light Company thanks the Commission for their time and attention to this issue and respectfully requests that the Commission consider and adopt as appropriate the above comments.

Respectfully Submitted,

DUQUESNE LIGHT COMPANY

April 16, 2008