**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held August 29, 2013

Commissioners Present:

Robert F. Powelson, Chairman

John F. Coleman, Jr., Vice Chairman

Wayne E. Gardner

James H. Cawley

Pamela A. Witmer

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| Pennsylvania Public Utility Commission,  Bureau of Investigation and Enforcement  v.  PPL Electric Utilities Corporation |  | M-2013-2275471 |

# Opinion and Order

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a proposed Joint Settlement Agreement (Settlement) filed on March 29, 2013, by the Commission’s Bureau of Investigation and Enforcement (I&E) and PPL Electric Utilities Corporation (PPL) (collectively, the Parties), with respect to an Informal Investigation conducted by I&E. Both Parties submitted a Statement in Support of the Settlement. I&E submits that the proposed Settlement is in the public interest and is consistent with the Commission’s Policy Statement at 52 Pa. Code § 69.1201, *Factors and standards for evaluating litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations—statement of policy* (Policy Statement). I&E Statement in Support at 5. We will issue the Settlement for comment.

**History of the Case**

On April 26, 2012, in response to the receipt of an anonymous letter from a person representing himself/herself as an employee of PPL to the Commission’s Bureau of Consumer Services (BCS), I&E instituted an informal investigation pertaining to PPL’s alleged improper transfer of a restoration crew working to restore electric service in the wake of an October 29, 2011 snowstorm. The informal investigation concerned the allegation that the restoration crew was transferred from a higher priority job in order to restore service to a lower priority job and the determination of whether the Company violated the Commission’s Regulations, the Public Utility Code or its own restoration procedures.

Based on its investigation, I&E determined that PPL may have violated Section 1501 of the Public Utility Code (Code), 66 Pa. C.S. § 1501, and its own internal policy and practices regarding service restoration priority. As a result of negotiations between I&E and PPL, the Parties have agreed to resolve their differences and urge the Commission to approve the Settlement as being in the public interest. Settlement ¶ 9, at 3.

**Background**

The proposed Settlement is attached to this Opinion and Order and has been filed by the Parties in order to resolve allegations of certain violations of Section 1501 of the Code relating to the failure to provide adequate, efficient, safe, and reasonable service. Had this matter been litigated, I&E would have alleged that PPL violated its duty to furnish and maintain adequate, efficient, safe and reasonable service and facilities when it reassigned a storm restoration crew from a higher priority job to restore service to a lower priority job, which resulted in a delay in the restoration of electric service to the higher priority area. Settlement ¶ 16, at 4.

The allegations stem from an October 29, 2011, snowstorm which impacted PPL’s entire service territory causing approximately 388,318 customer interruptions. Due to the significant number of outages and the limited available resources, PPL was required to prioritize which areas within its service territory should be restored first. PPL’s restoration priorities are set forth in Section 5.3 of the Company’s Emergency Response Plan.

While PPL fully cooperated with the investigation, PPL does not admit to any of these allegations. While I&E has conducted an extensive investigation, there has been no evidentiary hearing before any tribunal and no sworn testimony taken. *Id*. ¶¶ 20 and 21, at 5.

**Terms of the Settlement**

Pursuant to the proposed Settlement, PPL has taken corrective action that will act as safeguards against a similar incident occurring in the future. Specifically, PPL will add a provision to its storm restoration procedures instructing its personnel not to deviate from the Company’s guidelines when assigning storm restoration crews. In addition to the operational initiatives, PPL will pay a civil settlement amount of $60,000 within thirty days of the date of the Commission Opinion and Order approving this Settlement. Also, PPL will file a report(s) with the Commission’s Secretary pursuant to 52 Pa. Code § 5.591, which specifies the Company’s compliance with the terms of this Settlement. The terms that have been agreed upon by the Parties are set forth in greater detail in the Settlement. ¶ 22, at 6.

I&E agrees to forbear from initiating a Formal Complaint relative to the allegations that are the subject of the proposed Settlement. The proposed Settlement would not, however, affect the Commission’s authority to receive and resolve any Formal or Informal Complaints filed by any affected party with respect to the incident, except that no further sanctions may be imposed by the Commission for any actions identified in the Settlement. Settlement ¶ 23, at 6-7. The Settlement provides that none of the provisions of the Settlement or statements therein shall be considered an admission of any fact or culpability. *Id.* ¶ 30, at 8. The Settlement makes no findings of fact or conclusions of law, and therefore it is the Parties’ intent that this document and the related Statements in Support not be admitted as evidence in any future proceeding regarding this matter*.* *Id.* ¶ 24, at 7.

The proposed Settlement is conditioned on the Commission’s approval without modification of any of its terms or conditions. *Id.* ¶ 27, at 7-8. If the Commission does not approve the proposed Settlement, or makes any change or modification to the proposed Settlement, either Party may elect to withdraw from the Settlement. *Id.* ¶ 28, at 8.

**Discussion**

Pursuant to our Regulations at 52 Pa. Code § 5.231, it is the Commission’s policy to promote settlements. The Commission must, however, review proposed settlements to determine whether the terms are in the public interest. *Pa. PUC v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004); *Pa. PUC v. CS Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991); *Pa. PUC v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985).

**Conclusion**

Before issuing a decision on the merits of the proposed Settlement, and consistent with the requirement of 52 Pa. Code § 3.113(b)(3), we are providing an opportunity for interested parties to file comments regarding the proposed Settlement; **THEREFORE,**

**IT IS ORDERED:**

1. That this Opinion and Order, together with the attached Settlement Agreement and the Statements in Support thereof, shall be issued for comments by any interested party.

2. That a copy of this Opinion and Order, together with the attached Settlement Agreement and the Statements in Support thereof, shall be served on the Office of Consumer Advocate and the Office of Small Business Advocate.

3. That comments regarding the proposed Settlement Agreement and the Statements in Support thereof, will be considered timely if filed within twenty (20) days of the date of entry of this Opinion and Order.

4. That, subsequent to the Commission’s review of comments filed in this proceeding, an Opinion and Order will be issued.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 29, 2013

ORDER ENTERED: August 29, 2013

ATTACHMENT

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