

COMMONWEALTH OF PENNSYLVANIA



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September 9, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Petition of PPL Electric Utilities
Corporation for Approval of an Energy
Efficiency and Conservation Plan
Docket No. M-2009-2093216

Dear Secretary McNulty:

Enclosed for filing is the Reply Brief of the Office of Consumer Advocate, in the above-referenced proceeding.

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

Respectfully Submitted,

A handwritten signature in cursive script that reads "James A. Mullins".

James A. Mullins
Assistant Consumer Advocate
PA Attorney I.D. # 77066

Enclosures

cc: Honorable Susan D. Colwell
Office of Special Assistants

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities :
Corporation for Approval of an Energy : Docket No. M-2009-2093216
Efficiency and Conservation Plan :

REPLY BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: September 9, 2009

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I. INTRODUCTION

On August 28, 2009, the Office of Consumer Advocate (OCA) filed its Main Brief (M.B.) regarding its positions on the issues raised in this proceeding. The OCA submits that its Main Brief provides the Pennsylvania Public Utility Commission (PUC or Commission) with a comprehensive discussion of the issues in this proceeding. The OCA's Main Brief fully addresses and responds to many of the arguments raised by the Company and the other parties in their Main Briefs.

It is not the purpose of this Reply Brief to respond to all of the arguments contained in the Company's or other parties' Main Briefs. The OCA will limit its reply to those issues requiring additional clarification and response. Thus, any failure of the OCA to address specific arguments contained in the Company's or other parties' Main Briefs does not mean that the OCA agrees with PPL's or the other parties' positions or that the OCA has revised its position.

II. PROCEDURAL HISTORY

No reply necessary.

III. DESCRIPTION OF EDC PLAN

No reply necessary.

IV. SUMMARY OF ARGUMENT

As explained in the OCA Main Brief and as further set forth in this Reply Brief, the OCA generally supports the Company's proposed EE&C Plan (Plan). There are, however, some areas of the Plan still in need of modification. Specifically, PPL must: 1) account for the costs of the statewide evaluator within the applicable 2% cap, 2) formalize an ongoing stakeholder process plan for application during the implementation of the EE&C Plan, and 3)

forego interest on over-/under-collections, particularly if such interest would result in customers paying more than \$246 million for the Plan.

V. ARGUMENT

A. Act 129 Conservation and Demand Reduction Requirements

No reply necessary.

1. Overall Conservation Requirements

No reply necessary.

a. 2011 Requirements

No reply necessary.

b. 2013 Requirements

No reply necessary.

2. Overall Demand Reduction Requirements

No reply necessary.

3. Requirements for a Variety of Programs Equitably Distributed

No reply necessary.

4. 10% Government/Non-Profit Requirement

No reply necessary.

5. Low Income Program Requirements

No reply necessary.

6. Issues Relating to Individual Conservation and Demand Reduction Programs

No reply necessary.

a. Residential

No reply necessary.

- b. Commercial

No reply necessary.

- c. Industrial

No reply necessary.

7. Proposals for Improvement of EDC Plan

No reply necessary.

- a. Residential

No reply necessary.

- b. Commercial

No reply necessary.

- c. Industrial

No reply necessary.

B. Cost Issues

- 1. Plan Cost Issues

No reply necessary.

- 2. Cost Effectiveness/Cost-Benefit Issues

No reply necessary.

- 3. Cost Allocation Issues

No reply necessary.

- 4. Cost Recovery Issues

- a. Interest Costs

The OCA supports the Company's proposal to levelize its cost recovery over the term of the Plan. As explained in the testimony of OCA witness Richard Hahn, and the OCA's

Main Brief, however, the OCA does not support the Company's proposal to charge interest on over-collections and under-collections. In its Main Brief, the Company states that: "PPL Electric considers interest costs related to the EE&C Plan as an element of managing recovery of the EE&C Plan costs and, therefore, believes that interest costs are recoverable." PPL M.B. at 65. The OCA submits, however, that such a proposal could result in customers paying more than the 2% spending cap. As explained by Mr. Hahn:

The spending constraint should not include any interest charges. In other words, PPL has an average annual amount of \$61.5 million, not \$61.5 million plus interest. Also, with levelization, the interest would likely balance out over time. PPL should not be allowed to collect or charge any interest from customers.

OCA St. No. 1 at 15. Therefore, the OCA submits that the Company should not collect or charge any interest, particularly if such interest would result in customers paying more than \$246 million for the Plan.

b. Statewide Evaluator Costs

Section 2806.1 (G) states that:

The total cost of any plan required under this Section shall not exceed 2% of the electric distribution company's total annual revenue as of December 31, 2006.

66 Pa.C.S. § 2806.1(G). The OCA submits that the costs of the statewide evaluator are part of the total cost of the Plan and must be accounted for within the applicable 2% cap. However, PPL argues that the costs of the statewide evaluator are not part of PPL's Plan and, thus, are excluded from the 2% spending cap. PPL M.B. at 58. The Company also argues that it cannot quantify with any certainty the cost of the statewide evaluator. *Id.* at 58-59. Finally, the Company argues that including the cost of statewide evaluator in the cost of the EE&C Plan is inconsistent with the recovery of all other costs incurred by the Commission which are separately recovered

through the statewide assessments imposed pursuant to Section 510 of the Public Utility Code. 66 Pa.C.S. § 510. PPL M.B. at 59. PPL argues that, just like the Section 510 assessment costs, the statewide evaluator costs should be separately recovered. *Id.* PPL M.B. at 59.

The OCA submits that PPL's reading of § 2806.1(G) is incorrect. The statewide evaluator costs are a necessary component of the measurement, evaluation and verification needed to ensure that the Plan complies with Act 129. Therefore, the EE&C Plan budget must accommodate the inclusion of the costs of the statewide evaluator. The language of 2806.1(G) reads:

Limitation on Costs.—The total cost of any plan required under this Section shall not exceed 2% of the electric distribution company's total annual revenue as of December 31, 2006. The provisions of this paragraph shall not apply to the cost of low-income usage reduction programs established under 52 Pa. Code Ch. 58 (relating to residential low income usage reduction programs).

66 Pa.C.S. § 2806.1(G)(*Emphasis added*). Consequently, if the General Assembly had intended for other exclusions to the 2% spending cap besides low-income usage reduction program costs, it would have so stated. Further, as set forth by Mr. Hahn, inclusion of the statewide evaluator costs within the 2% spending limit will not impact PPL's ability to meet the required reduction targets since the forecasted energy savings exceed the requirements of Act 129. OCA St. No. 1 at 8.

As to the Company's argument that the same treatment provided to Commission costs through the Section 510 assessment process should extend to the cost of a statewide evaluator hired by the Commission, the OCA submits that this argument is erroneous. First, Section 2806.1(H) specifically provides for the costs of implementing the Plan from electric distribution companies with no reference to Section 510. Second, Section 510 assessments are

recovered through PPL's base rates. Those Section 510 assessment costs are not subject to recovery via an automatic adjustment mechanism as proposed by PPL here. Therefore, PPL's argument that recovery of the statewide evaluator costs should not differ from Section 510 assessment recovery is belied by the Company's own treatment of the costs. As a result, PPL must include these costs in the four-year overall spending level of \$246 million.

c. Qualifying Energy Efficiency and Demand Response Resources

As Mr. Hahn recommends, the OCA submits that PPL should avail itself of participation in existing market mechanisms, such as PJM's Reliability Pricing Model (RPM) auctions, and return any benefits from such mechanisms to customers as a credit. See, OCA St. No. 1 at 16. In agreeing with Mr. Hahn's recommendation, the Company states:

PPL Electric plans to follow this approach to the maximum extent possible for the peak load reductions associated with energy efficiency measures. However, PPL Electric expects that the CSP(s) for the Act 129 demand response programs (Direct Load Control and Load Curtailment) will bid those peak load reductions into the RPM auction (to the extent that those MWs were not previously committed from PJM's DR programs) and share those benefits with its customers.

PPL M.B. at 24. The OCA submits that the process adopted by the Company should ensure that the benefit is reflected for ratepayers.

C. CSP Issues

No reply necessary.

D. Implementation and Evaluation Issues

No reply necessary.

1. Implementation Issues

No reply necessary.

2. QA Issues

No reply necessary.

3. Monitoring and Reporting Issues

No reply necessary.

4. Evaluation Issues

a. On-going Stakeholder Process

In its filing, PPL did not fully commit to an ongoing stakeholder process. PPL's Main Brief provides detail as to how the Company envisions the process to unfold on a going-forward basis. The Company states that:

PPL Electric does not believe that a formal, prescriptive schedule is necessary for stakeholder meetings as it intends to meet with stakeholders a minimum of twice per year to review overall status. Additionally, more frequent meetings will be held with applicable stakeholders, or the full group, to discuss problems or issues if they arise.

PPL M.B. at 69. Although the OCA is supportive of the Company's on-going efforts to involve interested stakeholders, the OCA recommends that the Commission direct the Company to formalize an ongoing stakeholder process plan for application during the implementation of the EE&C Plan. As set forth in the Main Brief of OCA, as Mr. Hahn testified, such a process can be expected to be very beneficial. See, OCA M. B. at 22-24 and OCA St. No. 1 at 16. In the instant proceeding, the OCA found the initial stakeholder process to be useful in developing a more fully informed Plan and in resolving the numerous issues presented by the requirements of the Act in a beneficial manner. The OCA submits that the Plan, its implementation and any necessary adjustments would benefit greatly from the continuation of a formalized process.

The Company should commit to meet quarterly with stakeholders and provide the stakeholders with necessary information regarding Plan implementation, including reports on the

progress of selecting Conservation Service Providers, the expected costs, the progress toward implementation, penetration rates and savings levels achieved to date, and cost recovery to date. The OCA would also expect that the Company will work with the stakeholder group to review implementation issues, program issues that arise, educational or promotional materials that are being developed so that the stakeholders can provide their input. Other information and exchanges would also be included within the process, such as information regarding American Recovery and Reinvestment Act funding or any new legislation that impacts the EE&C Plan. The OCA recommends that, as with the initial stakeholder process, the process should remain an open exchange of ideas and information.

The OCA commends PPL in its stakeholder efforts to date. Given the significance of the effort needed to implement the EE&C Plan in a cost-effective manner for all customers, the OCA urges that the commitment to the process be extended and formalized so that all stakeholders can count on continuing to make contributions to the EE&C Plans.

E. Other Issues

No reply necessary.

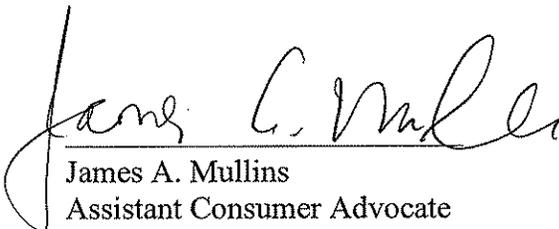
VII. CONCLUSION

For the reasons discussed above, and those set forth in the Main Brief of the OCA, the OCA submits that the Commission should adopt the recommendations set forth in this Brief and the OCA Main Brief.

VII. PROPOSED ORDERING PARAGRAPHS

The OCA's Proposed Ordering Paragraphs are set forth at page 26 of its Main Brief.

Respectfully submitted,



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Dated: September 9, 2009

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CERTIFICATE OF SERVICE

Petition of PPL Electric Utilities :
Corporation for Approval of an Energy : Docket No. M-2009-2093216
Efficiency and Conservation Plan :

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

Dated this 9th day of September 2009.

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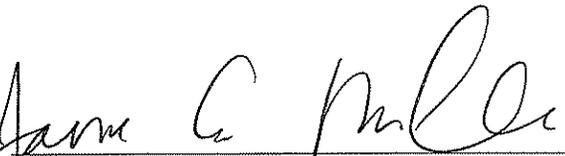
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